

## Oregon Liquor and Cannabis Commission

	2019-21 Actual	2021-23 Legislatively Adopted	2021-23 Legislatively Approved *	2023-25 Current Service Level	2023-25 Governor's Budget
Other Funds	250,165,490	383,761,300	4,944,464,019	341,666,393	396,490,632
<b>Total Funds</b>	<b>250,165,490</b>	<b>383,761,300</b>	<b>4,944,411,019</b>	<b>341,666,393</b>	<b>396,490,632</b>
Positions	364	384	386	384	397
FTE	361.29	381.25	382.16	382.00	392.85

\* Includes Emergency Board and administrative actions through December 2022.

### Program Description

The Oregon Liquor and Cannabis Commission (OLCC) regulates individuals and businesses that manufacture, sell, import, export, or serve alcoholic beverages. It also educates and trains liquor licensees, the public, and other groups, and investigates and takes action when necessary against those who violate liquor laws. In addition, OLCC licenses and regulates marijuana licensees and marijuana worker permits, and tracks and inspects medical marijuana grow sites of 13 plants or more, medical marijuana processors, and medical marijuana dispensaries. OLCC is also responsible for administering beverage container redemption requirements and the approval of redemption centers.

The OLCC is entirely supported by Other Funds. OLCC's liquor regulatory functions and a portion of its central services functions are supported by the sale of distilled spirits, privilege taxes on malt beverages and wines, and licenses and fees. Marijuana licenses and fees support the regulation of cannabis producers, processors, retailers and dispensaries, wholesalers, lab testing, as well as a commensurate share of central services expenses. The 2023-25 current service level budget cost allocation for central services and agency management for the recreational and medical marijuana divisions is 27% and 7%, respectively.

OLCC is assuming gross liquor sales of \$1.8 billion for 2021-23; in January, the Commission voted to continue a \$0.50 per bottle surcharge which will result in a further \$45 million in liquor sales revenue being generated for the General Fund. Per ORS 471.810, OLCC distributes revenue from liquor sales and a portion of beer and wine privilege taxes after agency expenses (including regulatory expenses, costs of goods sold, and a portion of agency overhead expenditures) according the following distribution formula:

- 56% to the General Fund;
- 20% to cities;
- 10% to counties;
- 14% to city revenue sharing; and

- 50% of privilege tax revenue to Mental Health.

Revenues generated by the \$0.50 surcharge on the sale of each bottle are designated exclusively for the General Fund. Medical and Recreational marijuana licensing fees are assumed to generate a total of \$44.3 million, which are used to support regulatory activities and a portion of agency overhead.

### CSL Summary

Store operating expenses (compensation payments to contracted liquor store agents and distiller agents) comprise 52.5% of OLCC's current service level (CSL) budget. The 2021 Legislative Assembly approved additional expenditure limitation related to the imposition of an updated compensation formula, with factors related to sales volume, store location, and inflationary increases tied to the consumer price index. The estimated average compensation rate for liquor store agents is 10.1% of total sales, and compensation for distillery agents is estimated at 36% of total sales.

Actual expenditures for bank card fees and agents' compensation payments will be higher than allowances granted for standard inflation rates in the agency's CSL budget. Actual OLCC expenditures for bank cards and agents' compensation are likely to total an additional \$13.2 million more than what's assumed in CSL based on forecasted sales, card usage, and commissions per contracts with agents, resulting in a \$7.4 million revenue impact to the General Fund that should be considered in the context of other agency budgetary decisions. The CSL includes \$49.1 million in bottle surcharge revenue, approved in January 2023.

The 2023-25 CSL eliminates \$145.5 million in one-time expenditure limitation from bond proceeds related to the purchase of land and construction of a new warehouse and headquarters, conveyor system, and warehouse management information technology system. Debt service on these bonds in the amount of \$27.1 million is included. One-time expenditures related to workstations and other services and supplies for new positions in 2021-23 is also phased out, as are costs for new distribution center equipment.

Of the OLCC's 384 positions, 21% are attributable to recreational marijuana regulation, and 5% are attributable to medical marijuana regulation. The current service level assumes ending balances for the recreational and medical marijuana programs of \$19.5 million, equivalent to 14 months of combined operating expenditures.

### Policy Issues

*Headquarters and Warehouse Relocation* - Other Funds Capital Construction expenditure limitation was approved in the amount of \$145.5 million in 2021-23 to facilitate the purchase of land and construction of a new warehouse and headquarters facility, with attendant conveyor and shipping systems. For the purposes of 2023-25 budget development, OLCC assumed construction would be complete in late winter or early spring 2025, and a tentative move date of spring 2025; however delays in contract review and procurement may delay project completion and the move to the new facility until early in the 2025-27 biennium.

*Cross-agency Partnerships* - OLCC continues to partner with law enforcement to help identify licensed marijuana producers and facilities. Hemp is primarily regulated by the Oregon Department of Agriculture (ODA), but OLCC provides oversight regarding how hemp is packaged and sold to consumers through the marijuana market, and sets limits on the amount of THC in hemp items. The relationship between ODA and OLCC regulatory structures requires close cooperation, policy development, and product testing protocols. OLCC supported the Department of Agriculture pesticide testing program through a one-time revenue transfer of \$487,897 in the 2021-23 biennium. In addition, Recreational Marijuana licensing fees also support a permanent Cannabis policy coordinator position at ODA through a revenue transfer of \$305,175.

*Anticipated Legislation* - OLCC anticipates legislation to be introduced that would allow home delivery of alcohol, which would necessitate the development of compliance and safety measures. A consumer protection measure related to the purity of hemp-derived CBD for human consumption may also be introduced, which could drive new processing, labeling, and packaging standards for hemp-related products.

*Information Systems Modernization* - With its dual functions as both revenue generator and regulator, OLCC has a number of information technology (IT) systems that span its scope of operations including licensing, compliance, inventory management, sales, and auditing functions. IT projects for the 2023-25 biennium include the replacement of legacy Marijuana and Liquor Licensing compliance systems, and the modernization of the agency's Distilled Spirits Supply Chain system. The new systems are intended to speed licensing application and approval, and allow input of and access to inspection and compliance information. The projects are funded by the issuance of \$27 million in Article XI-Q bonds, approved in the 2021-23 biennium. Debt service on the bonds will be paid using agency resources from liquor sales and marijuana licensing fees. Managing multiple large-scale IT projects simultaneously may prove challenging, especially with the relocation to a new facility.

*Laboratory Testing* - OLCC reports that some private laboratories have inaccurate results related to potency and contaminants in marijuana products, and that some licensees may be "lab shopping" for positive results of their samples. OLCC has proposed an extension of its partnership with ODA for creation of a reference laboratory, as well as direct regulation of laboratories conducting marijuana testing, which are currently overseen by the Oregon Health Authority.

*Vacancy Rate* - As of January 1 2023, OLCC had 33 long-term vacancies (positions vacant longer than 12 months) or 8.6% of their 2023-25 current service level positions. The majority of these vacancies were in the licensing and public safety divisions, and in medical marijuana regulation.

#### Governor's Budget Summary

The Governor's budget includes policy option packages that make the following adjustments to the OLCC's 2023-25 current service level:

- Additional expenditure limitation to accommodate bank card fees and agent’s compensation based on higher than forecasted sales in the current biennium (a combined total of \$19,658,453), supported by liquor revenue.
- Elimination of nine positions that remained vacant for an extended period of time; expenditure limitation associated with these positions was also removed from the budget.
- Authorizing expenditure limitation associated with IT improvements to modernize supply chain data and ordering systems, to coincide with the timing of these expenditures (\$16,695,000), supported by liquor revenue.
- Expenditure limitation to support the agency’s relocation from Milwaukie to its new facility, revenues for which are assumed to come from the sale of OLCC-owned facilities in Milwaukie (\$14,403,773), supported by liquor revenue.
- Addition of two alcohol licensing specialist positions (\$337,424 and 1.76 FTE), supported by liquor revenue.
- Six positions (4.67 FTE) and \$947,065 in additional expenditure limitation to develop and implement regulatory framework in the event that legislation passes to enable home delivery alcohol.
- Two positions dedicated to mitigation of information technology system implementation and security risks (\$496,133 and 1.76 FTE);
- Replacement of twelve vehicles used by marijuana licensing and inspection staff in the agency’s fleet that have exceeded their useful life, utilizing marijuana licensing revenue.
- The addition of a budget and fiscal manager 2 position (0.88 FTE) at a cost of \$238,613 in the Central Services division. The position is partially supported by a cost allocation methodology that would effectively derive 20% of the position’s funding from marijuana licensing fee revenue.
- Three positions (2.64 FTE) and \$572,942 in additional expenditure limitation to accommodate requests for public records. These positions are supported by a cost allocation methodology assuming 20% of costs are charged to marijuana licensing fee revenue.
- Expenditure limitation to support contracting for public information campaigns related to cannabis legality, hemp, human trafficking, and social equity cannabis licensing issues (\$450,000).
- Three positions (2.64 FTE) and \$965,674 in expenditure limitation to support development of random and targeted audit testing within the marijuana market to support consumer safety and labeling integrity for cannabis products.
- A transfer of \$2,281,689 to ODA to support the establishment of a state reference lab to compare package labels with actual pesticide and potency results, conduct market-based testing, and provide tests to support public health and OLCC compliance investigations. It is unclear what future operating costs for the reference lab will be, and how costs will be shared between ODA, OLCC, and any other identified stakeholders.

#### Other Significant Issues and Background

Two budget notes were included for OLCC by the 2021 Legislative Assembly, as follows:

- OLCC made a report to the Joint Ways and Means Subcommittee on Transportation and Economic Development on information regarding the valuation and timing of plans for the sale and disposition of the agency’s existing distribution center, headquarters, and Milport Road warehouse, including information on zoning, and real estate contract information; OLCC also provided information on the purchase price of land for its new facility, and assumed timelines for construction and relocation.

- Pursuant to a budget note directing OLCC to use stakeholder input in developing criteria for the use of marijuana licensing revenue to support cross-agency collaborations and future proposals use of licensee revenue, the OLCC reported that it continues to support a policy position at the Department of Agriculture, and recommends transferring marijuana licensing revenue for establishment of reference laboratory at the Department of Agriculture to support consumer safety and regulatory enforcement (this initiative is included in the Governor’s Recommended Budget as policy option package 418).

An audit of select financial accounts for the Year ended June 30, 2021 found a significant deficiency in the monthly transfer of liquor revenue to the General Fund, due to the use of two unreconciled accounting systems. The Secretary of State’s office recommended a strengthening of internal controls to reconcile accounting systems to ensure calculations are correct prior to the monthly transfer of funds. The audit noted that liquor inventory analysis for the year 2021 was not comprehensive, but instead was limited to sales of the top 100 items.

#### Key Performance Measures

A copy of the OLCC Annual Performance Progress Report can be found on the LFO website:

[https://www.oregonlegislature.gov/lfo/APPR/APPR\\_OLCC\\_2022-09-30.pdf](https://www.oregonlegislature.gov/lfo/APPR/APPR_OLCC_2022-09-30.pdf)