



Oregon Liquor Control Commission

Government – to – Government Annual Report 2020

Steven Marks, Executive Director

Tribal Liaison: Kelly Routt, Administrative Hearings Division Director

Introduction

The Oregon Liquor Control Commission (OLCC) administers Oregon's Liquor Control Act and the Adult and Medical Use of Cannabis Act. It promotes the public interest through the responsible sale and service of alcoholic beverages and recreational marijuana products. OLCC's mission is to support businesses, public safety, and community livability through education and the enforcement of liquor and marijuana laws. Functionally, the OLCC manages the business of making packaged distilled spirits available to adults over the age of 21 and issues licenses to businesses to manufacture, distribute, and sell alcoholic beverages or recreational marijuana products.

The OLCC has Memorandums of Understanding (MOUs) with all nine recognized tribes in Oregon. These MOUs establish how Oregon state law and OLCC licensing regulations apply to the sale and service of alcoholic beverages at tribal gaming facilities and other tribal enterprises. Currently eight tribes have properties that are licensed by OLCC to sell alcoholic beverages.

The OLCC has a Tribal Relations Policy, which was revised in July 2016 (attached). All OLCC employees have access to this policy, which is stored electronically with all other OLCC internal policies and procedures.

2020 has been a unique and challenging year for all of us. In March, after Governor Brown issued an executive order prohibiting large gatherings and on-premises consumption of food and alcohol, the Commission took swift action to provide economic and business support to its licensees. Since then, the Commission has provided the following support to alcohol licensees:

- Fast-tracked the process for existing on-premises licensees to obtain the privilege to sell and deliver beer, wine and cider for off-premises consumption
- Enabled "curbside" delivery of wine, cider, beer and distilled spirits
- Allowed returns to retail liquor stores of unused distilled spirits for a refund
- Streamlined alcohol service expansion for outdoor areas and parklets
- Deferred renewal fees and waived late fees for licensees
- Deferred malt beverage and wine privilege tax payments, without penalties or interest
- Enabled licensees to suspend their Limited Liability Insurance (LLI) if the licensee provided notification that it was not serving for on premises consumption
- Provided extensive and detailed guidance to all facets of the alcohol beverage industry via the OLCC website. Information is constantly updated, and can be accessed here: [COVID-19 Business Continuity Information - Alcohol](#)
- Enabled Oregon Distillers to provide limited home delivery of their products

While the majority of OLCC's alcohol licensees complied with the Governor's orders and guidance set by the Oregon Health Authority, the OLCC did have to step in to enforce the Governor's Executive Orders by taking administrative action against – and in some rare

instances, immediately suspending – a licensee who did not comply with the Governor’s orders on closing times and statewide face covering and physical distancing guidance.

Throughout 2020, the Oregon Liquor Control Commission (OLCC) continued to work with its tribal partners to promote the public interest. The focus of that work has ensured that changes to licensed businesses and compliance activities performed by OLCC and tribes support the public interest and safety. Agency staff continued to provide information and technical support to the tribes regarding liquor regulatory issues at licensed tribal businesses and provided information to tribal representatives regarding recreational marijuana laws.

OLCC Administration Activity

The Oregon Liquor Control Commission (OLCC) is the agency responsible for regulating the sale and service of alcoholic beverages in Oregon by administering the state’s Liquor Control Act and regulating the sale of recreational marijuana in Oregon through the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act.

The agency is comprised of three major operational programs; the Distilled Spirits Program, the Recreational Marijuana Program, and the Public Safety Program. All three programs are supported by the Administration, Financial Services, and Support Services divisions. Revenue generated from these programs helps support state and local government programs. The OLCC also enforces the Oregon Bottle Bill.

Distilled Spirits Program

The Distilled Spirits Program processes orders for distilled spirits from retail sales agents, as well as from tribes and military installations. Distilled Spirits Program staff are in contact with staff at premises located within Indian Country regarding the processing of liquor orders and payments.

Marijuana Program

Under ORS 475B.543, the Governor’s office may enter into an agreement with the governing body of a federally recognized Indian tribe located in this state for the purpose of cross-jurisdictional coordination and enforcement of marijuana-related businesses licensed to conduct business on tribal trust land by the governing body of the federally recognized Indian tribe.

In 2020, OLCC provided input during negotiations between the Cow Creek Band of Umpqua Tribe of Indians and the Governor’s Office to enter into an intergovernmental agreement for cross jurisdictional coordination and enforcement of marijuana-related business.

Public Safety Program

OLCC's Public Safety Program continues to connect with tribes and tribal entities through its programs. Although most of these interactions occur through licensed alcohol activity at tribal casinos, some tribes possess liquor licenses at other tribal enterprises including hotels, golf courses, travel centers and RV facilities.

Due to the COVID-19 pandemic, premises inspections were curtailed, especially during the time that businesses were prohibited from allowing on-premises food and alcohol consumption. During this time, field staff spent their time responding to inquiries and complaints that arose.

This division of the OLCC operates 12 offices in five regions throughout Oregon and is responsible for supporting liquor law and recreational marijuana compliance and performing enforcement duties when needed. OLCC's focus is on graduated enforcement that begins with licensee education, but may include Notices of Warnings and Notices of Violations. When these efforts are performed on tribal properties and with tribal businesses, OLCC coordinates these activities with tribal law enforcement, gaming commissions, and casino and business management. Training is also available to tribal law enforcement and tribal license holders.

When an Oregon tribe or a business registered to an Oregon tribe applies for a liquor license, license investigators review the applications and work with applicants to identify and determine the appropriate rules and laws that govern the operation of proposed businesses. In processing liquor license applications, the OLCC will make a determination to approve, deny, restrict or make recommendation to agency Commissioners regarding the granting of a license. When applications are approved, the Licensing Division will collect the appropriate license fee and issue the license. If an application is denied or restricted, applicants are given the opportunity to contest the decision through the administrative hearing process.

License investigators work closely with tribal businesses when changes are made either to the management or operation of licensed businesses to ensure that these changes are consistent with liquor laws governing the sale and service of alcoholic beverages.

False Identification Training Course

The Public Safety Program offers instruction to help licensees and their employees recognize false or altered identification. The course provides training that highlights steps that a licensee's employees can take to recognize false or altered identification, and what to do when a licensee's staff suspects that a patron may be using false identification. This includes how to safely confiscate identification and what facts law enforcement agencies need to follow up on the use of that identification.

Minor Sales Checks

The minor decoy program is designed to reduce underage drinking, and encourages businesses to develop best practices to check identification. The OLCC's Public Safety Program uses volunteers who are between the ages of 18-20 and who look their age to test businesses on their identification checking practices. All businesses that sell or serve alcohol are subject to a decoy visit. Typically, businesses are selected at random. This ensures, to the greatest extent possible, that each licensed business has an equal chance of being selected. Businesses may be targeted if there are documented issues with compliance with alcoholic beverage sale and service laws and rules. These issues include the failure to check, or properly check identification; allowing minors in prohibited areas; allowing minors to consume alcohol; and the sale of alcohol to minors.

When first licensed, businesses receive notice that they may be subject to minor decoy operations, and receive subsequent notices annually. Notifications include information about how to best prevent alcohol sales to minors and notifying licensees about the free ID checking course offered at all OLCC offices. OLCC also commends alcohol servers and sellers who use extra efforts to refuse to sell alcohol to minors.

The Public Safety Program cooperates with tribal governments and law enforcement in performing compliance checks on tribal land.

Public Safety Program Regional Office Activity

Bend Regional Office

The Bend Regional Office, which includes a satellite office in Pendleton, is responsible for licensing and enforcement in Crook, Deschutes, Grant, Harney, Jefferson, Malheur, Sherman, Wheeler, Baker, Gilliam, Morrow, Umatilla, Wallowa and Wasco Counties. This area includes the following businesses licensed to tribes:

- Cottonwood Resort at Indian Head Casino (Warm Springs)
- Wildhorse Resort & Casino (Pendleton)
- Plateau Travel Center (Madras)
- Golf Course at Birch Creek (Pendleton)
- Hamley Steakhouse (Pendleton)
- Hamley Café (Pendleton)

In September 2020, Licensing staff worked with the Confederated Tribes of the Umatilla Indian Reservation to process change of legal entity and name change licensing actions for Hamley Café, Hamley Steakhouse, and the Golf Course at Birch Creek. These license actions took place over the course of several weeks in the late summer. The actions involved a series of routine phone calls and emails between OLCC staff and the Wildhorse Resort & Casino Compliance Manager to exchange information and obtain the necessary documentation.

After Wildhorse Resort & Casino finished their remodel, field staff inspected the premises in September 2020. Field staff also worked with Wildhorse Resort & Casino staff to process their renewal application.

In October 2020, field staff conducted a walk-through of Indian Head Casino and observed no issues.

Eugene Regional Office

The Eugene Regional Office, which includes satellite offices in Corvallis, Newport, and Roseburg, is responsible for licensing and enforcement in Lane, Benton, Linn, Lincoln, and Douglas Counties. This area includes the following businesses licensed to tribes:

- Chinook Winds Casino Resort and Hotel (Lincoln City)
- Chinook Winds Golf Resort (Lincoln City)
- Seven Feathers Hotel & Casino Resort (Canyonville)
- Seven Feathers RV Resort (Canyonville)
- Seven Feathers Truck/Travel Center (Canyonville)

Eugene regional office staff received inquiries about whether casinos could stay open after the set current closure time (at the time, this was 11 PM). Field staff provided education about compliance with these requirements as a licensee.

In October 2020, field staff received a report of an intoxicated driver leaving Chinook Winds Casino Resort. Staff met with casino staff and provided verbal instruction on preventing overservice of alcohol.

Medford Regional Office

The Medford Regional Office, which includes satellite offices in Coos Bay and Klamath Falls, is responsible for licensing and enforcement in Josephine, Jackson, Coos, Curry, Klamath and Lake Counties. This area includes the following businesses licensed to tribes:

- Kla-Mo-Ya Casino (Chiloquin)
- The Mill Casino (North Bend)
- Three Rivers Casino (Florence)
- Three Rivers Casino Coos Bay (Coos Bay)

Field staff in the Coos Bay satellite office processed changes to Mill Casino's licensed business structure following a change in board members. Field staff in this office also attended a video conference in October 2020 regarding a new lobby project at the Mill Casino. In December 2020, Coos Bay field staff answered questions about server carts and servers doing tasting and alcohol beverage pairings for customers at Mill Casino.

Salem Regional Office

The Salem Regional office, which includes a satellite office in Warrenton, is responsible for licensing and enforcement in Columbia, Marion, Polk, Yamhill, Tillamook, and Clatsop Counties. This area includes the following businesses licensed to tribes:

- Spirit Mountain Casino (Grand Ronde)

In January 2020, Salem regional staff received a police report of an intoxicated driver leaving Spirit Mountain Casino. OLCC staff met with the casino's beverage manager, who provided verbal instruction on alcohol service to patrons. Casino staff had cut the patron off from alcohol service and warned the patron not to drive.

In February 2020, staff notified the casino beverage manager that OLCC had received a report of a DUI in which the person had consumed alcohol at the premises. In March 2020, staff conducted a premises walk through and observed no issues. Field staff had phone contact with the casino beverage manager in October 2020 to answer questions about refilling liquor bottles.

Portland Regional office

The Portland Metro Regional office is located in Milwaukie and is responsible for licensing and enforcement in Clackamas, Hood River, Multnomah and Washington Counties. There are no businesses licensed to tribes in this region.

Bottle Bill Program

The OLCC is responsible for administering Oregon's Bottle Bill. The Bottle Bill establishes laws that require stores and distributors to accept certain empty beverage containers and pay a 10-cent refund value for each container. Stores that must accept container returns must accept them on all days and at all hours they are open, whether they have reverse vending machines for accepting the containers or not. OLCC ensures that manufacturers, distributors, and retailers comply with the requirements of the Bottle Bill and approves the establishment of beverage container redemption centers.

OLCC did not have any contacts with tribal representatives regarding the Bottle Bill in 2020.

Other Activity

In addition to connecting with tribes on liquor regulatory issues, in 2020 the OLCC engaged with tribes in the following ways:

- In September 2020, OLCC staff provided additional information to the Task Force on Tribal Cultural Items in response to a request for clarification on the records that OLCC maintains.

- The OLCC tribal key contact attended tribal public safety cluster meetings held throughout the year.
- The OLCC tribal key contact attended portions of the 2020 Annual Government-to-Government Summit, which was held virtually in light of the COVID-19 pandemic.

Legislation

In 2020, legislation was proposed that would direct the Commission to negotiate distilled spirits pricing directly with Indian tribes for sales of drinks at on-premises locations in Indian Country, as that term is used in 18 U.S.C. 1511.

The Oregon Liquor Control Commission has historically contracted with all of the Oregon Tribes that have gaming compacts to allow for sales of distilled spirits for on-premises consumption in Indian Country (purchases of distilled spirits for sales at businesses located outside Indian Country should continue to be purchased at a retail liquor store). Each Memorandum of Understanding requires the tribes to be licensed with a full on-premises sales license and allows the tribe to buy alcohol directly from the Commission at a reduced rate. The Commission sought to clarify statutes and allow the Commission to unambiguously honor these longstanding agreements with Oregon Tribes.

While there was widespread support for this change, very few bills were passed during the 2020 session. OLCC is seeking to have this legislation introduced during the 2021 legislative session.

Agency Contact Information

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Policy and Procedures

SUBJECT: Tribal Relations Policy

NUMBER: PP 845-103-002

APPLICATION: Commission-Wide

REVISED: July 2016

APPROVED: /s/ Steve Marks **DATE:** 07/28/2016
Steve Marks, Executive Director

CITATION OF AUTHORITY

Executive Order #96-30, State/Tribal Government-Government Relations; ORS 182.164, State Agencies to Develop and Implement Policy on Relationship with Tribes; and ORS 182.166, Training of State Agency Managers and Employee Who Communicate with Tribes.

DEFINITION

“Tribe” means a federally recognized Indian tribe of Oregon.

POLICY

The Oregon Liquor Control Commission values its relationship with Oregon’s tribes. The agency strives to establish and maintain positive government-to-government relations between the agency and the tribes. The purpose of this policy is to formalize the relationship that exists between Oregon tribes and the Oregon Liquor Control Commission.

GUIDELINES

1. The Oregon Liquor Control Commission (OLCC) shall designate an executive or management employee, or designee, to manage and coordinate OLCC's agreements with Oregon tribes recognized by the US government, and to:
 - a. regulate tribal activities that require licensing by the agency;
 - b. contract for purchase and provision of alcoholic beverages with tribal entities;
 - c. provide other services and agreements that are, otherwise, within the scope of OLCC's agency authority in the state of Oregon.
2. Appoint an executive or management employee, or designee, to manage and coordinate OLCC's intergovernmental communications by:
 - a. identifying agency programs that affect Oregon tribes;
 - b. ensuring that relevant communication continues;
 - c. preparing an annual report as required by ORS 182.166 (3);
 - d. ensuring that all OLCC employees are aware of agency policy.
3. OLCC shall make reasonable efforts to ensure that agency action corresponds with mutual goals and missions.
4. OLCC designated employees must attend periodic training regarding tribal culture, relations, and law in order to ensure familiarity with tribal governments and an understanding of, and sensitivity to, issues relevant to tribes.
5. OLCC shall consider impacts on Oregon tribal governments when developing policies relevant to tribes, and discuss issues with tribal representatives as appropriate.