



## Oregon Liquor and Cannabis Commission

### Government – to – Government Annual Report 2021

#### Agency Contact Information

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## Introduction

The Oregon Liquor and Cannabis Commission<sup>1</sup> (OLCC) administers Oregon's Liquor and Cannabis 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. The Commission has historically contracted with all of 9 recognized Oregon Tribes that have gaming compacts to allow for sales of distilled spirits for on-premises consumption on tribal land.

The OLCC tribal key contact attended portions of the 2021 Annual Government-to-Government Summit, which was held virtually for the second year due to the COVID-19 pandemic. Tribal leaders not only shared their continued challenges related to COVID, but also the unique opportunities in consulting with each other on shared values for tribal communities. Continuing the policy from 2020, the Commission 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

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<sup>1</sup> The Oregon Liquor Control Commission's name changed to the Oregon Liquor and Cannabis Commission effective August 2, 2021, as a result of 2021 House Bill 2111.

times and statewide face covering and physical distancing guidance. OLCC did not receive any complaints about or observe any noncompliance by tribal licensees.

Throughout 2021, the 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 OLCC is the agency responsible for regulating the sale and service of alcoholic beverages in Oregon by administering the state's Liquor and Cannabis Act and regulating the sale of recreational marijuana in Oregon through the Cannabis, 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.

On several occasions throughout the year, OLCC consulted with Cow Creek Band of Umpqua Tribe Indians on the tribe's proposed cannabis rules. OLCC staff provided feedback on the draft rules.

#### **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 April 2021, staff worked with the Cottonwood Resort at Indian Head Casino (Warm Springs). A walkthrough of the facility was conducted but no issues were found.

Steve Filkins with the Wildhorse Casino & Resort requested information on HB 2264. This legislation is described in more detail on Page 8 of this report. He also had a question about donated alcohol for special events. This latter inquiry relates to OLCC's attempt to eliminate the one day limit for non-profit licensees as the community was presented with unique challenges related to the ongoing pandemic. HB 2363, discuss in more detail below, streamlined the temporary sales license process for multiple locations and premises.

#### **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)

A regulatory specialist in the Eugene Region approved three applications for Temporary Use of an Annual License (TUAL) events at Seven Feather Casino. The events were Tacotopia, Bikes and Brews and their Tattoo Expo. On another occasion the regulatory specialist conducted training for the proper checking of I.D. and identifying and serving visibly intoxicated persons. All contacts were at Seven Feathers Casino.

## **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)

In October 2021, the Mill Casino (Coos Bay) applied for a special event license. However, the application was submitted too late for processing and could not be approved. An administrative assistant and regulatory specialist from the Medford region both had contact with tribal staff.

On October 15, 2021, regulatory specialists conducted compliance observations outside the KLA-MO-YA Casino (Chiloquin). No issues were noted, therefore regulatory specialists did not enter the premises and no direct contact was made.

## **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 June 2021, a new OLCC regulatory specialist was assigned to the district that includes Spirit Mountain Casino. The regulatory specialist set up an introductory meeting with the Food and Beverage Manager, and discussed an application for outdoor expansion and a DUII report. The regulatory specialist also answered questions about whether an alcohol distributor could sponsor an event. In September 2021, OLCC consulted with the Food and Beverage manager about changes to the minor posting signs and answered questions relating to alcohol service permits.

In October and November 2021, OLCC staff continued discussions regarding changes to minor postings at the casino, and provided additional information about alcohol service permits. OLCC staff met with casino staff regarding special event applications, and answered questions about employing minors as staff.

## **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 2021.

## **Other Activity**

In addition to connecting with tribes on liquor regulatory issues, in 2021 the OLCC engaged with tribes in the following ways:

- The OLCC tribal liaison attended public safety committee meetings in May, August, and November 2021.
- At the May 18 public safety committee meeting, OLCC staff gave a presentation on cannabis regulatory issues, including information about the proliferation of Delta-8 THC in the marketplace and proposed legislation, specifically 2021 House Bill 3000.
- On October 6, 2021, the OLCC tribal liaison was a speaker at a seminar about tribes and the cannabis industry, sponsored by the Oregon State Bar Indian Law Section. The seminar covered jurisdiction and federal enforcement priorities, revenue considerations, and a discussion of how tribes can participate in the cannabis industry.
- The OLCC tribal key contact attended portions of the 2021 Annual Government-to-Government Summit, which was held virtually in light of the COVID-19 pandemic.
- In early December 2021, OLCC had initial consultation with Cow Creek regarding proposed business developments related to alcohol manufacturing.

## **Legislation**

The OLCC oversees the sale of alcoholic beverages and recreational marijuana to allow access to responsible adults while protecting Oregon's public health, safety, and community livability. Oregon operates a control system, which gives the state the exclusive right to sell packaged, distilled spirits through retail liquor stores operated by contracted agents. The OLCC has historically contracted with Oregon's Nine recognized 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.

In 2021, OLCC staff worked with the Governor and the legislature to secure a variety of technical and policy changes that impacted alcohol regulation with Tribes. Many of the statutory changes were motivated by the need to modernize components of the alcohol program in response to

evolving business models and the challenges of today. Governor Brown, on behalf of OLCC, introduced House Bill 2112 which would permit the OLCC to negotiate price with Indian tribes and commercial airlines in the sale of distilled liquor, so long as Indian tribes and commercial airlines hold full on-premises sales licenses as defined by current statute. The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) wrote a letter in support of HB 2112. The letter noted that the Legislature would be authorizing the existing MOU Governing Liquor Licensing and Regulation between CTUIR and OLCC that have been ongoing since 2006.

HB 2112 was incorporated into House Bill 2264, which replaced the entirety of the introduced version. HB 2264 reflects the collaboration with tribes and other stakeholder groups. In addition to OLCC's work with Indian tribe and airlines, HB 2264:

- Allows full on-premises and limited on-premises sales licenses to sell at retail and deliver factory-sealed containers of malt beverages, wine, and cider.
- Allows a full on-premises and limited on-premises sales licenses to sell at retail and deliver factory-sealed containers of malt beverages, wine, and cider at off-site locations with a temporary use of the annual license (TUAL) or catered event approval. T
- Includes a driver license or ID card from a province or territory of Canada as acceptable ID when purchasing alcoholic beverages.

Other 2021 legislation included allowing all applicants for a liquor license to be eligible for a temporary letter of authority to operate (ATO) and to extend the time period of the ATO from 90 days to 180 days (Senate Bill 750); temporary sales licensee to sell specified alcoholic beverages for on and off-premises consumption at more than one location, under a single temporary sales license (HB 2363); and requiring employees to report if they have reasonable belief that sex trafficking is occurring at any premises or that minors are employed or contracted as performers at premises in violation of OLCC rules (SB 515).

## **Conclusion**

The OLCC serves the State of Oregon and our nine federally recognized Tribal Governments as a partner in public safety, as a resource for businesses, and a key revenue-generator for the state. The agency takes each of these roles very seriously. As Oregonians continue to adapt to a "new normal," we look forward to future collaboration with our tribal communities and to expand on the opportunities for meaningful tribal consultation and cultural connection. Our focus is on the long term goals so we can ensure that the agency continues to improve on the services to each of our sovereign tribal governments and the people they serve.





## 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

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### **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.

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