
MEMORANDUM

Legislative Fiscal Office
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To: Human Services Subcommittee of the Joint Committee on Ways and Means

From: Linda Ames, Legislative Fiscal Office
503-986-1816

Date: June 13, 2013

Subject: HB 3460
Work Session Recommendations

HB 3460 creates new provisions under the Oregon Medical Marijuana Program, requiring the Oregon Health Authority to establish and administer a registration system for medical marijuana facilities to facilitate the transfer of usable marijuana between grow sites and registry identification cardholders, and their designated primary caregivers.

The measure, the original staff measure summary, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The measure previously had hearings in the House Committee on Health Care on 4/8/2013 and 4/17/2013, and a public hearing in this Subcommittee on 5/16/2013.

The expenditure impact of establishing and administering this new registration program is estimated at \$803,276 Other Funds and 4 positions (3.66 FTE). Staff would be responsible for inspecting sites for compliance with regulations, as well as processing new applications, criminal background checks, and other administrative responsibilities. The fiscal also includes costs to modify the current data system. Fee revenues are expected to cover costs.

Amendment

The proposed -8 amendment is a combination of the -7 amendment with the addition of an Other Funds expenditure limitation to cover the fiscal impact. Besides the expenditure limitation, the amendment also: (1) authorizes OHA to verify to law enforcement that a person responsible for a marijuana facility is registered with the program; (2) makes modifications to zoning requirements; (3) requires annual registration renewal; and (4) allows for the transfer of "immature plants".

Motion: I move the -8 amendment to HB 3460.

Measure as Modified

The measure, as amended, is recommended to be moved to the Full Committee on Joint Ways and Means.

Motion: I move HB 3460 to the Joint Committee on Ways and Means with a “do pass” recommendation, as amended.

Assignment of Carriers

Full: _____

2nd Chamber: _____

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass and Be Referred to the Committee on Ways and Means
Vote:	8 - 1 - 0
Yeas:	Clem, Conger, Harker, Keny-Guyer, Lively, Thompson, Weidner, Greenlick
Nays:	Kennemer
Exc.:	0
Prepared By:	Tyler Larson, Administrator
Meeting Dates:	4/8, 4/17

WHAT THE MEASURE DOES: Requires Oregon Health Authority (OHA) establish by rule medical marijuana facility registration system for transfer of usable marijuana between grow sites and registry identification card holders. Establishes minimum facility application, location and security requirements. Requires OHA conduct criminal background check of facility applicants and refuse registration if responsible individual has prior felony drug conviction. Requires facility test marijuana for pesticides, mold and mildew. Requires facility receive authorization from registry card holder prior to receiving marijuana from grow site. Exempts facility from marijuana plant and usable amount limits. Allows OHA to inspect facility and records to ensure compliance. Allows registry card holder to reimburse facility for normal and customary costs of doing business. Requires OHA notify former facility of registration card holder change of facility. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Provisions of the bill
- Current legal status of dispensaries
- Patient’s need for safe access and proper regulation
- Criminal impact of unregulated dispensaries
- Benefits of pesticide, mold and mildew testing

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: In 1998, Oregon voters passed Oregon Ballot Measure 67, which allows the cultivation, possession and use of marijuana by patients with certain medical conditions with a doctor’s recommendation. The current application process requires a qualifying patient to apply for registration as an identification card holder. Registry identification card holders identify a grower and grow site address form which to either grow their own plants or obtain medicine from a registered grower. Patients have expressed concerns about growing their own medical marijuana and locating a trustworthy and legal grower. Dispensaries already exist across the state and offer “safe access” for patients to obtain medical marijuana. Dispensaries are not authorized under current statute.

House Bill 3460 requires the Oregon Health Authority establish rules for the registration and regulation of medical marijuana dispensary facilities where registration card holders can obtain medical marijuana. The bill requires facilities be properly licensed and that the product be tested for pesticide, mold and mildew prior to distribution.

4/18/2013 3:11:00 PM

This summary has not been adopted or officially endorsed by action of the committee.

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3460 - 8

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

Prepared by: Kim To
Reviewed by: Linda Ames, Steve Bender, Monica Brown
Date: 6/12/2013

Measure Description:

Directs Oregon Health Authority to establish registration system for medical marijuana facilities for transferring usable marijuana from registry identification cardholders, designated primary caregivers of registry identification cardholders or marijuana grow sites to medical marijuana facilities and from medical marijuana facilities to registry identification cardholders or designated primary caregivers of registry identification cardholders.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Oregon Judicial Department (OJD), Department of Justice (DOJ)

Summary of Expenditure Impact - Oregon Health Authority		
	2013-15 Biennium	2015-17 Biennium
Other Funds	803,276	637,154
Total Funds	\$803,276	\$637,154
Positions	4	4
FTE	3.66	4.00
Summary of Revenue Impact - Oregon Health Authority		
	2013-15 Biennium	2015-17 Biennium
Other Funds	900,000	1,000,000
Total Funds	\$900,000	\$1,000,000

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

House Bill 3460 creates new provisions under the Oregon Medical Marijuana Program (OMMP), requiring the Oregon Health Authority to establish and administer a registration system for medical marijuana facilities to facilitate the transfer of usable marijuana between grow sites and registry identification cardholders, and their designated primary caregivers.

The – 8 amendment includes a limitation of \$803,276 Other Funds for the 2013-15 biennium for the Oregon Health Authority. The – 8 amendment also: (1) authorizes Public Health to verify to law enforcement that a person responsible for a marijuana facility is registered with the program; (2) makes modifications to zoning requirements; and (3) allows for the transfer of "immature plants". The – 8 amendment does not change the original fiscal determination.

The Oregon Health Authority notes that with the passage of Senate Bill 1085 (2006), the term "immature plant" was changed to "seedlings or starts". OHA likely be addressed this inconsistent terminology in rule by defining an immature plant as a "seedling or start".

Oregon Health Authority (OHA)

The Oregon Health Authority estimates the expenditure impact of establishing and administering this new registration program to be \$803,276 Other Funds and 3.66 FTEs for the 2013-15 biennium; and \$637,154 Other Funds and 4.00 FTEs for the 2015-17 biennium. Should this bill become law, OHA anticipates hiring four employees [2 Compliance Specialist 3 positions and 2 Office Specialist 2 positions]. The Compliance Specialists would be responsible for inspecting sites for compliance with regulations regarding the zoning, proximity to other facilities and other requirements outlined in the proposed legislation. The Office Specialists would be charged with processing new applications and criminal background checks, handling paperwork regarding notices to applicants whose request were denied, and providing support work for the Compliance Specialists. In addition to the Personal Services, related Services and Supplies, and program operational costs, the expenditure impact includes the cost of modifying the OMMP data system to establish a medical marijuana facility registration system to authorize the transfer of usable marijuana.

The bill requires OHA to register medical marijuana facilities. OHA anticipates establishing a registration fee of \$4,000 per facility. Assuming the registration of 225 facilities during the first biennium and 250 facilities in the second, OHA estimates the revenue impact to be roughly \$900,000 Other Funds for the 2013-15 biennium; and \$1,000,000 for the 2015-17 biennium.

Oregon Judicial Department (OJD)

Passage of this bill is anticipated to have minimal fiscal impact on the Oregon Judicial Department. ORS 183.400 allows any person who contests the validity of a rule developed by an agency to file a petition for review with the Court of Appeals. OJD anticipates a small increase in the number of these cases due to this bill.

Department of Justice (DOJ)

Passage of this bill is anticipated to have minimal fiscal impact on the Department of Justice. DOJ anticipate using existing staff and resources to provide the Oregon Health Authority with legal assistance in developing this new registration program.

**PROPOSED AMENDMENTS TO
HOUSE BILL 3460**

1 On page 1 of the printed bill, line 3, after the semicolon insert “limiting
2 expenditures;”.

3 Delete lines 7 through 28 and delete page 2.

4 On page 3, delete lines 1 through 13 and insert:

5 **“SECTION 2. (1) The Oregon Health Authority shall establish by
6 rule a medical marijuana facility registration system to authorize the
7 transfer of usable marijuana and immature marijuana plants from:**

8 **“(a) A registry identification cardholder, the designated primary
9 caregiver of a registry identification cardholder, or a person responsi-
10 ble for a marijuana grow site to the medical marijuana facility; or**

11 **“(b) A medical marijuana facility to a registry identification
12 cardholder or the designated primary caregiver of a registry identifi-
13 cation cardholder.**

14 **“(2) The registration system established under subsection (1) of this
15 section must require a medical marijuana facility to submit an appli-
16 cation to the authority that includes:**

17 **“(a) The name of the person responsible for the medical marijuana
18 facility;**

19 **“(b) The address of the medical marijuana facility;**

20 **“(c) Proof that the person responsible for the medical marijuana
21 facility is a resident of Oregon;**

22 **“(d) Documentation, as required by the authority by rule, that**

1 demonstrates the medical marijuana facility meets the qualifications
2 for a medical marijuana facility as described in subsection (3) of this
3 section; and

4 “(e) Any other information that the authority considers necessary.

5 “(3) To qualify for registration under this section, a medical
6 marijuana facility:

7 “(a) Must be located in an area that is zoned for commercial, in-
8 dustrial or mixed use or as agricultural land and may not be located
9 at the same address as a marijuana grow site;

10 “(b) Must be registered as a business or have filed a pending appli-
11 cation to register as a business with the Office of the Secretary of
12 State;

13 “(c) Must not be located within 1,000 feet of the real property com-
14 prising a public or private elementary, secondary or career school at-
15 tended primarily by minors;

16 “(d) Must not be located within 1,000 feet of another medical
17 marijuana facility; and

18 “(e) Must comport with rules adopted by the authority related to:

19 “(A) Installing a minimum security system, including a video sur-
20 veillance system, alarm system and safe; and

21 “(B) Testing for pesticides, mold and mildew and the processes by
22 which usable marijuana and immature marijuana plants that test
23 positive for pesticides, mold or mildew must be returned to the regis-
24 try identification cardholder, the cardholder’s designated primary
25 caregiver or the cardholder’s registered grower.

26 “(4)(a) The authority shall conduct a criminal records check under
27 ORS 181.534 of a person whose name is submitted as the person re-
28 sponsible for a medical marijuana facility under subsection (2) of this
29 section.

30 “(b) A person convicted of a Class A or Class B felony under ORS

1 475.752 to 475.920 for the manufacture or delivery of a controlled sub-
2 stance in Schedule I or Schedule II may not be the person responsible
3 for a medical marijuana facility for five years from the date the person
4 is convicted.

5 “(c) A person convicted more than once of a Class A or Class B
6 felony under ORS 475.752 to 475.920 for the manufacture or delivery of
7 a controlled substance in Schedule I or Schedule II may not be the
8 person responsible for a medical marijuana facility.

9 “(5) If a person submits the application required under subsection
10 (2) of this section, the medical marijuana facility identified in the ap-
11 plication meets the qualifications for a medical marijuana facility de-
12 scribed in subsection (3) of this section and the person responsible for
13 the medical marijuana facility passes the criminal records check re-
14 quired under subsection (4) of this section, the authority shall register
15 the medical marijuana facility and issue the person responsible for the
16 medical marijuana facility proof of registration. The person responsi-
17 ble for the medical marijuana facility shall display the proof of regis-
18 tration on the premises of the medical marijuana facility at all times
19 when usable marijuana or immature marijuana plants are being
20 transferred as described in subsection (1) of this section.

21 “(6)(a) A registered medical marijuana facility may receive usable
22 marijuana or immature marijuana plants only from a registry iden-
23 tification cardholder, designated primary caregiver or person respon-
24 sible for a marijuana grow site if the registered medical marijuana
25 facility obtains authorization, on a form prescribed by the authority
26 by rule and signed by a registry identification cardholder, to receive
27 the usable marijuana or immature marijuana plants.

28 “(b) A registered medical marijuana facility shall maintain:

29 “(A) A copy of each authorization form described in paragraph (a)
30 of this subsection; and

1 **“(B) Documentation of each transfer of usable marijuana or im-**
2 **mature marijuana plants.**

3 **“(7) A medical marijuana facility registered under this section may**
4 **possess usable marijuana and immature marijuana plants in excess of**
5 **the limits imposed on registry identification cardholders and desig-**
6 **nated primary caregivers under ORS 475.320.**

7 **“(8) The authority may inspect:**

8 **“(a) The premises of an applicant for a medical marijuana facility**
9 **or a registered medical marijuana facility to ensure compliance with**
10 **the qualifications for a medical marijuana facility described in sub-**
11 **section (3) of this section; and**

12 **“(b) The records of a registered medical marijuana facility to ensure**
13 **compliance with subsection (6)(b) of this section.**

14 **“(9)(a) A registry identification cardholder or the designated pri-**
15 **mary caregiver of a registry identification cardholder may reimburse**
16 **a medical marijuana facility registered under this section for the**
17 **normal and customary costs of doing business, including costs related**
18 **to transferring, handling, securing, insuring, testing, packaging and**
19 **processing usable marijuana and immature marijuana plants and the**
20 **cost of supplies, utilities and rent or mortgage.**

21 **“(b) A medical marijuana facility may reimburse a person respon-**
22 **sible for a marijuana grow site under this section for the normal and**
23 **customary costs of doing business, including costs related to trans-**
24 **ferring, handling, securing, insuring, testing, packaging and process-**
25 **ing usable marijuana and immature marijuana plants and the cost of**
26 **supplies, utilities and rent or mortgage.**

27 **“(10) The authority may revoke the registration of a medical**
28 **marijuana facility registered under this section for failure to comply**
29 **with ORS 475.300 to 475.346 or rules adopted under ORS 475.300 to**
30 **475.346. The authority may release to the public a final order revoking**

1 **a medical marijuana facility registration.**

2 **“(11) The authority shall adopt rules to implement this section, in-**
3 **cluding rules that:**

4 **“(a) Require a medical marijuana facility registered under this sec-**
5 **tion to annually renew that registration; and**

6 **“(b) Establish fees for registering and renewing registration for a**
7 **medical marijuana facility under this section.”.**

8 In line 36, after “Usable marijuana” insert “or immature marijuana
9 plants”.

10 In line 39, after “Usable marijuana” insert “or immature marijuana
11 plants”.

12 On page 4, line 39, after “usable marijuana” insert “or an immature
13 marijuana plant”.

14 On page 7, line 13, after “usable marijuana” insert “or immature
15 marijuana plants”.

16 On page 8, line 5, after “usable marijuana” insert “or immature marijuana
17 plants”.

18 Delete lines 12 through 17.

19 After line 23, insert:

20 **“(12) The authority shall revoke the registration of a medical marijuana**
21 **facility registered under section 2 of this 2013 Act if a court has issued an**
22 **order that prohibits the person responsible for the medical marijuana facility**
23 **from participating in the Oregon Medical Marijuana Program under ORS**
24 **475.300 to 475.346.”.**

25 In line 24, delete “(12)” and insert “(13)”.

26 In line 39, after “usable marijuana” insert “or an immature marijuana
27 plant” and delete “re-”.

28 Delete line 40 and insert “authorizes the person responsible for the
29 marijuana grow site to transfer the usable marijuana or immature marijuana
30 plant to a”.

1 On page 9, line 25, after “registration” insert “as a medical marijuana
2 facility”.

3 In line 28, after the period insert “However, the Oregon Health Authority
4 may inspect a medical marijuana facility registered under section 2 of this
5 2013 Act at any reasonable time to determine whether the facility is in
6 compliance with ORS 475.300 to 475.346.”.

7 Delete lines 41 through 45.

8 On page 10, delete lines 1 through 22 and insert:

9 **“SECTION 8.** ORS 475.331 is amended to read:

10 “475.331. (1)(a) The Oregon Health Authority shall create and maintain
11 a list of the persons to whom the authority has issued registry identification
12 cards, the names of any designated primary [*caregivers and the addresses of*
13 *authorized marijuana grow sites.*] **caregivers, the names of persons re-**
14 **sponsible for a medical marijuana facility registered under section 2**
15 **of this 2013 Act, the addresses of authorized marijuana grow sites and**
16 **the addresses of registered medical marijuana facilities.** Except as pro-
17 vided in subsection (2) of this section, the list shall be confidential and not
18 subject to public disclosure.

19 “(b) The authority shall develop a system by which authorized employees
20 of state and local law enforcement agencies may verify at all times that: [*a*
21 *person is a lawful possessor of a registry identification card or the designated*
22 *primary caregiver of a lawful possessor of a registry identification card or that*
23 *a location is an authorized marijuana grow site.*]

24 **“(A) A person is a lawful possessor of a registry identification card;**

25 **“(B) A person is the designated primary caregiver of a lawful**
26 **possessor of a registry identification card;**

27 **“(C) A location is an authorized marijuana grow site;**

28 **“(D) A location is a registered medical marijuana facility; or**

29 **“(E) A person is the person listed as the person responsible for a**
30 **registered medical marijuana facility.**

1 “(2) Names and other identifying information from the list established
2 pursuant to subsection (1) of this section may be released to:

3 “(a) Authorized employees of the authority as necessary to perform offi-
4 cial duties of the authority.[; and]

5 “(b) Authorized employees of state or local law enforcement agencies,
6 **who provide to the authority adequate identification, such as a badge**
7 **number or similar authentication of authority,** only as necessary to
8 verify that: *[a person is a lawful possessor of a registry identification card*
9 *or the designated primary caregiver of a lawful possessor of a registry iden-*
10 *tification card or that a location is an authorized marijuana grow site. Prior*
11 *to being provided identifying information from the list, authorized employees*
12 *of state or local law enforcement agencies shall provide to the authority ade-*
13 *quate identification, such as a badge number or similar authentication of au-*
14 *thority.]*

15 “(A) **A person is a lawful possessor of a registry identification card;**

16 “(B) **A person is the designated primary caregiver of a lawful**
17 **possessor of a registry identification card;**

18 “(C) **A location is an authorized marijuana grow site;**

19 “(D) **A location is a registered medical marijuana facility; or**

20 “(E) **A person is the person listed as the person responsible for a**
21 **registered medical marijuana facility.**

22 “(3) Authorized employees of state or local law enforcement agencies that
23 obtain identifying information from the list as authorized under this section
24 may not release or use the information for any purpose other than verifica-
25 tion that: *[a person is a lawful possessor of a registry identification card or*
26 *the designated primary caregiver of a lawful possessor of a registry identifi-*
27 *cation card or that a location is an authorized marijuana grow site.]*

28 “(a) **A person is a lawful possessor of a registry identification card;**

29 “(b) **A person is the designated primary caregiver of a lawful**
30 **possessor of a registry identification card;**

1 **“(c) A location is an authorized marijuana grow site;**
2 **“(d) A location is a registered medical marijuana facility; or**
3 **“(e) A person is the person listed as the person responsible for a**
4 **registered medical marijuana facility.”.**

5 In line 25, delete “January” and insert “March”.

6 After line 30, insert:

7 **“(3) Notwithstanding the operative date specified in subsection (1) of this**
8 **section, a person who owns or is employed by a medical marijuana facility**
9 **that transfers usable marijuana as described in section 2 (1) of this 2013 Act**
10 **and that meets the qualifications for a medical marijuana facility described**
11 **in section 2 (3)(a) to (c) of this 2013 Act is excepted from the criminal laws**
12 **of this state for possession, delivery or production of marijuana, aiding or**
13 **abetting another in the possession, delivery or production of marijuana or**
14 **any other criminal offense in which possession, delivery or production of**
15 **marijuana is an element as described in ORS 475.309 (1) until the operative**
16 **date specified in subsection (1) of this section.**

17 **“SECTION 10. Notwithstanding any other law limiting expenditures,**
18 **the amount of \$803,276 is established for the biennium beginning July**
19 **1, 2013, as the maximum limit for payment of expenses from fees,**
20 **moneys or other revenues, including Miscellaneous Receipts, but ex-**
21 **cluding lottery funds and federal funds, collected or received by the**
22 **Oregon Health Authority for administrative and operating expenses**
23 **incurred in implementing section 2 of this 2013 Act and the amend-**
24 **ments to ORS 475.302, 475.304, 475.309, 475.320, 475.323 and 475.331 by**
25 **sections 3 to 8 of this 2013 Act.”.**

26 In line 31, delete “10” and insert “11”.

27
