



Oregon

Kate Brown, Governor

Liquor Control Commission

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April 1, 2015

Joint Committee on Implementing Measure 91
Oregon State Capitol
900 Court St. NE
Salem, OR 97301
Room 347

Dear Committee Members:

Attached please find informational documents requested by members on the following subjects:

- a) Report on OLCC Listening Sessions
- b) Age Verification Equipment
- c) Minors' Access to Licensed Premises
- d) Background Checks
- e) Edible Marijuana Products
- f) Peace Officer Authority
- g) Definitions for Measure 91

OLCC staff and representatives from DOJ will be present to speak to these issues at the Joint Committee this evening. We look forward to continuing to work with members to provide the necessary resources to inform your policy discussions.

Sincerely,

Will Higlin

Marijuana Program Director

OLCC



Synopsis of OLCC Listening Sessions

The Oregon Liquor Control Commission has been conducting a public involvement process since early January 2015 as part of an on-going effort to determine what concerns Oregonians most about the OLCC's responsibilities to implement Measure 91, particularly as it relates to issues such as public safety, licensing, testing and locations of commercial recreational marijuana operations.

The first phase of this effort was an online survey that was conducted on the Agency's website—marijuana.oregon.gov—during the first week of January. The second phase was a series of 11 listening sessions around the state. Sessions in Baker City, Pendleton, Salem, Eugene, Ashland, Klamath Falls, Tigard, Clackamas, Newport and Portland drew an estimated 3,500 participants.

The survey and the listening sessions are in addition to traffic on marijuana.oregon.gov, which has received more than 220,000 hits since going up immediately after the November General Election. In addition, nearly 10,000 people have subscribed to a list serve to get regular updates on topics related to the implementation of the new law.

SURVEY

The purpose of the survey was to start the public participation process and gain some knowledge of what Oregonians were concerned about before starting the listening sessions. The survey was designed to capture demographic and contact information as well as ask three open-ended questions designed to obtain information about:

- Primary concerns or hopes about the implementation of Oregon's recreational marijuana law.
- Priorities for the Commission to address, including advertising and packaging, locating marijuana businesses near schools, standards for driving under the influence, testing and licensing.
- Other priorities that the Commission should address.

Nearly two-thirds of those who responded identified themselves as members of the community. The remaining third identified themselves as affiliated with the medical marijuana community, addiction prevention and treatment, law enforcement or local government.

While not scientific, the survey helped provide some baseline information on which to structure the listening sessions. The survey results show an across-the-board concern about public safety, including protecting children from marijuana and marijuana products, advertising and packaging that do not appeal to children, and where retail marijuana outlets should be located.

The survey also found that there is an expectation on the part of those who responded that, with balanced regulation and fair taxation, a legal recreational marijuana industry will create new economic opportunities, protect existing marijuana-related businesses, diminish the black market, and generate revenue.

Other issues raised by responses to the survey included:

- Developing DUII testing standards.
- The impact of recreational marijuana on the medical marijuana community.
- Regulating recreational marijuana in a manner similar to alcohol.
- Limiting recreational marijuana operations to Oregon residents only.

A copy of the survey and a more detailed analysis of the results are attached to this memo.

LISTENING SESSIONS

Attendance at the 11 listening sessions included approximately: 125 people in Baker City, 80 in Pendleton, 250 in Salem, 500 in Eugene, 350 in Ashland, 100 in Klamath Falls and 350 in Bend, 400 in Tigard, 400 in Clackamas, 175 in Newport and 150 in Portland. The vast majority of those who attended were either currently involved in the marijuana industry in some way, such as medical marijuana growers and dispensary owners, or have interest in being involved once recreational marijuana becomes legal and the OLCC begins issuing licenses.

The format of the sessions involves a presentation on the basics of the new law and the Commission's role in implementation followed by a series of questions designed to gain some sort of consensus about such issues as licensing, the size of commercial grows, the relationship between medical and recreational marijuana, edibles, security, and advertising.

In the OLCC's judgment several themes emerged from these listening session, many of which echo the results of the survey. While not scientific and keeping in mind that not every issue was address in the same way at all of the sessions, a number of observations can be made. They include:

- Overwhelming support for favoring small, existing, in-state marijuana growing operations in the licensing process over new, large, out-of-state "agri-business" grow operations.
- Overwhelming support for issuing marijuana licenses to Oregon residents (two-year residency requirement) only.
- Widespread support for not over-regulating the legal recreational marijuana industry.
- Widespread support for testing standards of marijuana and marijuana products for things such as pesticides, mold and potency by laboratories licensed by the

state. (Concerns were raised about who bears the cost of the testing, about whether testing would be random and the need for licensed, standardized operation guidelines for labs.)

- Widespread support for selling marijuana in marijuana-only stores and for preventing minors from entering retail marijuana outlets.
- Widespread support for retail outlets being allowed to sell marijuana related paraphernalia.
- Strong opposition to restrictions on where marijuana-related businesses can operate. (Some of those who expressed opposition to location limitations agreed with limitations on locating marijuana businesses near schools. There were also concerns expressed that that location restrictions beyond schools, such as daycares, rehabilitation centers, churches and alike, may prevent necessary growth in the industry.)
- Strong support for warning labels on marijuana and marijuana-related products.
- General support for education about marijuana for those under 21 and on the responsibilities of adults.
- General concern about cities/counties banning marijuana related business, but benefitting from the generated revenue
- General support of advertising restrictions similar to alcohol/tobacco and not targeting minors. (Concerns were raised about limitations on free speech and how limits on advertising would affect a marijuana business' ability to function in a free market.)
- Strong support for making edible marijuana products available, but overwhelming support for restrictions on packaging that appeals to children, limits on serving sizes and information in dosage, but with the caveat that neither the products themselves nor the packaging be over regulated.
- Strong support for the importance of growers having a security system, but with the provision that it should not be a requirement
- Mixed support for collocating medical and recreational dispensaries/outlets.
- Mixed response to licensing workers in recreational marijuana retail outlets similar to what the OLCC does for workers in locations that serve alcohol. (Those who were opposed to licensing or on the fence about it made that case that employees in retail outlets are not "serving" marijuana in the same way a bartender serves drinks. Others also said that licensing would add to the cost of doing business and that it is the owners' responsibility to educate workers about their responsibilities.)
- Mixed response to different requirements for indoor vs. outdoor grow operations
- Mixed support for childproof or child resistant packaging. (While there was support for childproofing edibles and other similar products, there was concern that keeping marijuana-related products out of the hands of children is the responsibility of parents and the too much childproofing of packages would be hindrance to seniors and the disabled.)

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Attachment A

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- Support for allowing places where marijuana can be consumed such as bars, lounges, clubs, etc.
- Minor support for allowing marijuana delivery services.

Age Verification Equipment

The OLCC has requested broad ability to require licensees to install age verification equipment (AVE at the point of sale.) The OLCC clarifies that it would like the ability to require identification checks in order to prevent access by minors

ORS 471.342 allows retail licensees who have sold alcohol to a minor to purchase age verification equipment in lieu of a suspension or civil penalty. OLCC may also require the use of the equipment when a licensee has repeatedly sold alcoholic beverages to minors. This equipment is designed to be used at the point of sale and the requirements for the equipment are set forth in administrative rule, OAR 845-009-0140. There is a wide range of equipment available on the market, some of which is capable of collecting and storing personal information.

With respect to marijuana, the OLCC is asking for the discretion to require AVE equipment as a condition for operations. By providing the authority to require such equipment, the OLCC could refine the application of the authority to apply it in appropriate conditions through the public rule making process.

ORS 807.750(3) requires that: "A private entity that swipes an individual's driver license or identification card under subsection (2)(a) or (b) of this section may not store, sell or share personal information collected from swiping the driver license or identification card."

OLCC has taken the position that because our administrative rule requires only that equipment record "results" and does not require the capture and storage of personal information it does not conflict with ORS 807.750. In practice, some licensees may choose equipment that creates a conflict with ORS 807.750, but this choice is not required by our rule and OLCC staff have advised licensees not to use such equipment.

OLCC believes that it should employ the same standard for recreational marijuana licensees.

General Options:

Issue one; Requirements for AVE Equipment:

1. Give OLCC discretion to require AVE equipment for licensees and refine at rule making.
2. Give OLCC authority to require AVE equipment if a licensee has sold to a minor (at this point, the administrative sanction for sale to a minor is a subject for rule making)

Issue two; Provisions for personal identifying information:

1. Provide by law that the OLCC must insure that the same data protection provided by ORS 807.750 for recreational marijuana licensees and that any such equipment only record results.
2. Require that any licensee may not employ AVE equipment that captures personally identified information and that it only reports results.

Minors in Liquor Stores

By rule, minors are not permitted in retail liquor stores unless accompanied by a parent or spouse. For licenses that allow on-premises consumption of alcoholic beverages, OLCC assigns a minor posting identifying the times at which minors may be present at the premises. The posting range from minors being allowed at all times to minors never being allowed on the premises. Liquor licenses must comply with their minor posting at all times, regardless of whether or not the minor is accompanied by a parent.

The Cole Memo requires that state law “prevent the distribution of marijuana to persons under 21 years of age.” In order to meet this requirement, Measure 91 grants OLCC authority to assign minor postings as we do for liquor licenses. OLCC has requested additional authority to require that identification of every patron is checked before entering a retail marijuana license and to require, at the agency’s discretion, that retail licenses install age verification equipment at the point of sale. The agency believes that these additional tools will help to satisfy the requirements of the Cole Memo and ensure that marijuana is not distributed to minors.

Furnishing alcohol to minors is a criminal offense and preventing access to alcohol by minors is one of the most important mission responsibilities for the OLCC. It is clear that it will also be a high priority with regard to access to recreational marijuana. OLCC intends to employ a rigorous approach regarding access and sales to minors, particularly as Oregon will be in a transition to a new societal approach to the regulation of marijuana. Our licensees should be in the position to be strong partners in meeting the terms of law and preventing access within the recreational system. While rules and sanctions are not promulgated, it is realistic to expect that sanctions in the area of marijuana will be more severe than those for alcohol (at least through the transition to a stable operating system). The OLCC does provide for a system of graduated sanctions for multiple alcohol sales to minors that can be generally characterized as options for suspension or civil penalty for the first and second offenses, mandatory suspension for the third offense and cancellation for the fourth offense within a two year period. These fines and closures are focused on the licensee, the criminal offense of furnishing applies to the individual who made the sale to the minor. While legislative guidance on these issues and robust public rule making will help the OLCC determine proper sanctions for sale of recreational marijuana to minors, steps to prevent sales not only protect the minor but also the license; both of these aims are consistent with Ballot Measure 91 and the “Cole Memo.”

General Options:

1. Allow OLCC minor posting authority similar to existing alcohol authority.
2. Provide the OLCC discretion to require licensees check I.D. before entry into a retail recreational facility.

3. Provide the OLCC discretion to require licensees to check I.D. at point of sale.

4. Any combination of the above options.

Washington:

Persons under the age of 21 are not allowed to enter or remain on the premise of a retail outlet. Most retail outlets ask for ID at the door.

Colorado:

Persons under the age of 21 are not permitted in areas of restricted or limited access. All visitors must provide proof of age and be at least 21 years of age. Most retail outlets ask for ID at the door.

Note: the OLCC may want to prohibit access by minors to other types of licensees other than retail, particularly for reasons of safety concerning certain processing activity. The authority to allow access when accompanied by a parent may also be important here (home grow, family farms).

Background Checks

OLCC has previously requested the authority to require fingerprints from marijuana license applicants in order to perform nationwide criminal background checks. The dash one amendments to Senate Bill 844 propose to grant OLCC this authority.

OLCC performs background checks for every applicant for an annual liquor license and selectively performs checks on other individuals associated with annual liquor licenses. Applicants who are sole proprietors and certain members of legal entities identified in rule are required to submit individual history forms as part of the license application. OLCC staff use the information contained in the forms to run in-state background checks using LEDS terminals to check in-state DMV and criminal records. When processing license applications, staff are unable to access national databases through LEDS. When investigating a license application, fingerprints are required in order to directly access national databases. ORS 471.695 authorizes OLCC to require applicants for on-premises sales licenses to submit fingerprints. In addition to license applicants, OLCC staff run background checks on managers or individuals with a financial interest in the business when staff have reason to believe that an individual may have been involved in criminal activity. These checks are performed using LEDS to query in-state records.

Measure 91 states that OLCC may deny an applicant who “has been convicted of violating a law of this state, *or another state, or of violating federal law.*” OLCC has requested the broadest authority possible to do the highest level of background checks for marijuana applicants. The agency believes that in order to effectively fulfill our obligations under the Measure, we require the authority to obtain fingerprints which would allow us to access national databases.

The requested authority is similar to current authority to require fingerprints under ORS Chapter 471. However, OLCC does not currently require all fingerprints from applicants for liquor licenses due to the cost associated with collecting fingerprints and accessing national databases. OLCC would like similar authority to use its discretion in rule making to determine the proper level of background checks. Given the broad discretion of the statute, “may deny,” an applicant OLCC may choose various screens to the extent of the checks, for instance looking back for only a certain period of time.

Organized crime is known to have existing interests in the illegal drug trade. The ability to perform nationwide background checks would allow an added degree of opportunity to prevent individuals associated with organized crime from being licensed in the recreational marijuana industry. The mere ability to perform such checks, even if not

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applied systemically, would reduce the likelihood of applicants with extensive criminal records, providing some deterrent effect.

Related to the background checks issues, applicants for liquor licenses are required to verify that they have not committed crimes that would prohibit them from receiving a license.

General Options:

1. Provide OLCC authority to require finger prints as with alcohol.
2. Change the statute to denial criteria for crimes committed in Oregon

Delay of Edibles

OLCC has requested the opportunity to delay licensing for edible products due to concerns regarding the complexity of developing rules and procedures that would allow processors to safely produce edible products under the timelines described in Measure 91.

The OLCC has identified a number of policy issues that it feels should be addressed prior the adoption of rules and the approval of licenses which manufacture edible marijuana products:

- How much THC should be in any one edible marijuana serving? Both Colorado and Washington have settled on a rate of 10 micrograms per serving. There is little conclusive scientific evidence to support this number. The OLCC has asked the Oregon Health Authority to convene a panel of experts to try and answer this question. We have asked for an answer as soon as possible.
- How many servings should there be in one product? Some edible products available in OMMP dispensaries contain 500 micrograms of THC or more. This translates into 50 servings in a single product. OLCC has asked the OHA for advice on this issue. Both Colorado and Washington have set a maximum of 10 servings per product or a sum total of 100 micrograms of THC.
- How should these products be labeled with respect to marijuana? Colorado just completed its third change to its labeling rules for edible products. Washington is undergoing another iteration of its rules regarding labeling. Each time a change has been made the edible manufacturers have had to make new packaging and labels to meet the new rules.
- What labeling should be in place for the underlying food product? OLCC staff is currently working with the DOA and OHA to address this issue.
- What types of testing should be done on an edible product. OLCC intends to require potency testing and is working with food experts to understand what other tests should be in place before a product can be considered safe.
- What type of safety warnings should be included? Colorado requires its products to indicate how many doses are in a package, how long it will take before the product will affect the consumer and warning labels aimed at children. OLCC has asked OHA for help in developing these standards.
- What type of product should be allowed? The general public has expressed concern regarding products that appeal to children or mimic existing non-marijuana products. Building rules that clearly protect children will be complicated. The rules drafted by both Colorado and Washington are possible models but OLCC wishes to work with experts in children behavior to assure that products sold in OLCC licensed retail establishments cannot be confused with non-marijuana products.
- What type of advertising should be allowed on the packaging? Package looks, labels and branding need to be defined by rule to assure that it is both accurate and does not appeal to children.

The dash one amendments to Senate Bill 844 propose to give OLCC an additional year to adopt rules related to edibles. This provision helps to align expectations with the complexity of the issue and grants the agency the necessary time to get our rules right. The OLCC intends to move as quickly as possible to adopt rules and make edible products available in the recreational market.

General Option:

1. Provide for a one year period to promulgate edible rules, January 2017 (following anticipated retail location licensing in the last quarter of 2016).
2. Do not change law and expect that OLCC will manage this responsibility with the understanding that OLCC should take the time to get it right (phase-in)

Scope of Peace Officer Authority

ORS 471.775(2) grants liquor inspectors authority to make arrests and seizures and issue criminal citations for violations of the Liquor Control Act and “any other laws of this state that the commission considers related to alcoholic liquor.” In theory this is a broad grant of authority. In practice, the liquor inspectors focus their enforcement efforts on activities related to licensed premises. Pursuant to this philosophy, liquor inspectors do not typically enforce violations of municipal code, such as open container violations, at their own discretion nor do they enforce any violations related to motor vehicles. Any enforcement of unlicensed manufacture or sale of alcohol is done in partnership with local law enforcement.

Oregon Department of Justice Advice to the OLLC is being provided to the committee to provide a more comprehensive view of how the OLCC manages Peace Officer Authority.

Washington and Colorado provided specialized training for their enforcement officers regarding marijuana. OLCC staff will need to do the same.

General Options:

1. Provide the OLCC with the same authority as alcohol.
2. Limit OLCC peace officer enforcement of marijuana law to licensed premises, employees and representatives of licensed premises and illegal activity directly associated with a licensed premises.


Note: Last committee meeting there was confusion about the power to arrest. OLCC inspectors do have the power to make custodial arrests but by OLCC policy this authority is used when needed for defense and safety of the inspector or other persons or with authority from a supervising manager. Because OLCC does not facilities to hold or transport individuals, custodial arrests are coordinated with local law enforcement.



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

MEMORANDUM

DATE: January 7, 2015

TO: Steven Marks, OLCC Executive Director 

FROM: Heather A. Vogelsong, Assistant Attorney General
Government Services Section

SUBJECT: Scope of Liquor Enforcement Inspector's Peace Officer Authority

This memorandum discusses the scope of a liquor enforcement inspector's ability to exercise peace officer authority. In summation, the inspector's scope is limited to the field of alcohol.

A liquor enforcement inspector's authority stems from the Liquor Control Act. Liquor enforcement inspectors are agents of the Commission and are not authorized to exercise greater authority than what has been provided to the Commission. ORS 471.001(6). Likewise, under the Act, inspectors have peace officer powers in relation to only the alcohol arena.¹ This is seen by the definition of liquor enforcement inspector and the statute discussing the authority of inspectors. ORS 471.001(6) and 471.775(2). I have reviewed other statutes using the term "liquor enforcement inspector," including the statutes the legislature amended in 2012 when the definition of liquor enforcement inspector was amended. Some of the amended statutes state the types of activities liquor enforcement inspectors can engage in as peace officers, such as stopping, detaining, issuing citations, arresting a person, and appearing in court. ORS 133.220, 153.039, 153.042, and 153.083. However, those statutes do not describe the field in which the inspectors can carry out peace officer activities. Upon reviewing those statutes, they support that an inspector's powers are limited to the field of alcohol.

The jurisdictional limitation on a liquor enforcement inspector's powers means that there are areas in which an inspector cannot exercise peace officer authority. ORS 133.055(2) serves as a good example. If a liquor enforcement inspector who is conducting a liquor related compliance check has probable cause to believe that a licensee or patron assaulted or placed a family or household member in fear of imminent serious physical injury, then the inspector does not have

¹ In addition to the Liquor Control Act statutes and rules enacted to carry out that Act, the law allows the Commission to identify statutes related to alcohol that a liquor enforcement inspector can enforce. There must be a rational connection between alcohol and the other statute that the Commission determines an inspector can enforce.

authority, and is not required by the statute, to arrest the assailant.² This is because domestic violence laws are not laws an inspector has authority to enforce.³

A few additional examples may help illustrate what this means in practice. If a liquor enforcement inspector is on duty and observes two individuals using cocaine in a public park, the liquor enforcement inspector does not have authority to stop the individuals, issue a citation, or arrest the individuals. The liquor enforcement inspector can call a law enforcement agency to report the crime. If a liquor enforcement inspector who is on-duty and investigating an individual for serving a minor identifies through LEDS that there is a non-alcohol related reason to arrest the individual (a non-alcohol related warrant), then the liquor enforcement inspector can detain the individual for the length of the liquor related investigation and call other law enforcement, but cannot arrest the individual.⁴ Similarly, after July 1, 2015, an on-duty liquor enforcement inspector who is conducting a liquor related compliance check and finds that a consumer possesses more marijuana than the law allows, can call other law enforcement (and detain if the consumer is being investigated for a liquor related violation). The other law enforcement officer would conduct the investigation, issue a citation, and perform an arrest, as needed. The liquor enforcement inspector need not ignore the crime, but cannot exercise the inspector's peace officer authority because the crime is not alcohol related.

In sum, OLCC's inspectors are peace officers for limited purposes. Although liquor enforcement inspectors are peace officers, inspectors' peace officer powers are tied to the field of alcohol.

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² ORS 133.055(2)(a) states that "when a peace officer responds to an incident of domestic disturbance and has probable cause to believe that an assault has occurred between family or household members, as defined in ORS 107.705, or to believe that one such person has placed the other in fear of imminent serious physical injury, the officer shall arrest and take into custody the alleged assailant or potential assailant."

³ In addition, I do not believe that the Commission can designate assault laws, including domestic violence assault laws, as laws related to alcoholic liquor. ORS 471.001(6) and ORS 471.775(2).

⁴ ORS 133.005 and ORS 153.039 are part of the powers granted to liquor enforcement inspectors. ORS 471.771(2). "Arrest" under ORS 133.005 means "to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense." ORS 153.039 clarifies the scope of detention of an individual suspected of a liquor related violation: "the period of detention may be only as long as is necessary to: (a) Establish the identity of the person, firm, corporation or organization believed to have committed the violation; (b) Conduct any investigation reasonably related to the violation; and (c) Issue a citation for the violation." Once the period of time necessary to do these three things has expired, the liquor enforcement inspector would no longer be able to "detain" the individual.

Explanation of Proposed Changes to Measure 91 definitions and related provisions

The current definition of “marijuana extracts” in Measure 91 includes products made using hydrocarbon extraction methods. These methods can be dangerous if not done in the correct way with closed loop systems. A product made using vegetable glycerin, water or through other mechanical processes, would not be included in the definition of “marijuana extracts”. As you can see from the attached document with proposed legislative changes, we will call these substances marijuana concentrates. These concentrates potentially have high levels of THC, like extracts.

A concentrate would exist in a legal grey area where it is not clear what category it fits into, or if it fits into a category at all. This is important for two reasons:

1. An OLCC marijuana licensee can only process or sell marijuana items. Marijuana items include marijuana, marijuana products or marijuana extracts. A concentrate would not fall within the definition of marijuana or marijuana extract. A concentrate by itself that has not been incorporated into something else is arguably not “a product” that contains marijuana – it is a substance left over after you strip the resins from marijuana through some process. This would mean an OLCC marijuana processor could not make a concentrate and a retailer could not sell it. It would also mean that there would be no products into which a concentrate might be incorporated.

2. Under Section 6 of Measure 91, an individual over 21 can have up to 8 ounces of usable marijuana, up to 16 ounces of homemade marijuana products in solid form and 72 ounces in liquid form. A concentrate would fall within the definition of useable marijuana and as we understand it, 8 ounce of a concentrate like hash, is a large amount that would be worth a great deal on the black market. If a concentrate is considered a marijuana product, then a household could have up to 16 ounces of a concentrate in solid form, or 72 ounces in liquid form. Again, such amounts would be quite valuable on the black market.

Because of these ambiguities and stated intent in Measure 91 that marijuana not be diverted to the black market, it would be useful to provide more clarity.

We have proposed amending and adding certain definitions to Measure 91 that we believe would provide that clarity, in addition to making other technical changes.

- The definition of “marijuana items” is amended to include “marijuana concentrates”.
- The definition of “marijuana products” is amended to make it clear that anything that is intended for human consumption or use would be a marijuana product, if that product contained cannabinoids, including any product that incorporated

marijuana, usable marijuana, marijuana concentrates or marijuana extracts. A marijuana product would not be marijuana, usable marijuana, marijuana concentrates or marijuana extracts by itself.

- The definition of “usable marijuana” is clarified to only include dried flowers or leaves or a combination of those. Since the Measure 91 definitions and the definition of marijuana concentrates establishes in separate categories products that are a mixture or preparation of dried marijuana flowers and leaves, the definition of “usable marijuana” does not need to include those products.
- The definition of “marijuana extract” is amended to include a substance made through methods that are more dangerous and thus should only be done through an OLCC licensee under OLCC’s rules.
- A definition of “cannabinoid” is added since it is used in other definitions.
- A definition of “marijuana concentrate” is added to include a substance made through methods that could be done at home and do not pose a public safety risk.
- Section 6 of Measure 91 is amended to permit the making of a homemade marijuana concentrate if the concentrate does not exceed one ounce and the delivery of not more than an ounce.
- A conforming amendment is made to Section 79 given the new definition of “marijuana concentrate” and the possession and delivery limits.

Amend the following definitions in Measure 91, Section 5:

- (15) "Marijuana items" means marijuana, marijuana products, **marijuana concentrates** and marijuana extracts.
-
- (19)(a) "Marijuana products" means products intended for human consumption **or human use** that contain cannabinoids, including but not limited to products that **incorporate** marijuana, **usable marijuana, marijuana concentrates** or marijuana extracts.
- (b) "Marijuana products" does not mean:
 - (A) Marijuana **or usable marijuana**, by itself; [or]
 - (B) A marijuana extract, by itself; **or**
 - **(C) A marijuana concentrate by itself.**
-
- (29) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves **or a combination of dried marijuana flowers and dried marijuana leaves** [, *and any mixture or preparation thereof*].
-
- Delete the definition of "marijuana extract" in Measure 91, Section 5, and insert:
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- **(13) "Marijuana extract" means a substance obtained by separating cannabinoids from marijuana by:**
 - **(a) Chemical extraction with a hydrocarbon-based solvent, including butane, hexane, propane or CO₂; or**
 - **(b) Any other process authorized by the Oregon Liquor Control Commission by rule.**
-
- Add the following definitions to Measure 91, Section 5:
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- **"Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.**
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- **"Marijuana concentrate" means a substance obtained by separating cannabinoids from marijuana using:**
 - **(a) A mechanical process, or**
 - **(b) A chemical process employing any non-hydrocarbon solvent such as vegetable glycerin, vegetable oils or animal fats, isopropyl alcohol, or ethanol; or**
 - **(c) Any other process authorized by the Oregon Liquor Control Commission by rule.**
-
- Amend Section 6 of Measure 91 as follows:
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- SECTION 6. Exemptions. (1) Sections 7 to 44 and 60 to 62 of this Act do not apply:
- (a) To the production, processing, keeping, or storage of homegrown marijuana at a household by one or more persons 21 years of age and older if the total of homegrown marijuana at the household does not exceed four marijuana plants and eight ounces of usable marijuana at a given time.
- (b) To the making, processing, keeping, or storage of homemade marijuana products at a household by one or more persons 21 years of age and older if the total of homemade marijuana products at the household does not exceed sixteen ounces in solid form at a given time.
- (c) To the making, processing, keeping, or storage of homemade marijuana products at a household by one or more persons 21 years of age and older if the total of homemade marijuana products at the household does not exceed seventy-two ounces in liquid form at a given time.
- **(d) To the making, processing, keeping, or storage of homemade marijuana concentrate at a household by one or more persons 21 years of age and older if the total of homemade marijuana concentrate at the household does not exceed one ounce at a given time.**
- **(e)** To the delivery of not more than one ounce of homegrown marijuana at a given time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.
- [(e)] **(f)** To the delivery of not more than sixteen ounces of homemade marijuana products in solid form at a given time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.
- [(f)] **(g)** To the delivery of not more than seventy-two ounces of homemade marijuana products in liquid form at a given time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.
- **(h) To the delivery of not more than one ounce of homemade marijuana concentrate at a given time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.**
- (2) Sections 7 to 70 of this Act:
- (a) Do not apply to the extent a person acts within the scope of and in compliance with the Oregon Medical Marijuana Act; or
- (b) Do not amend or affect in any way the function, duties, and powers of the Oregon Health Authority under the Oregon Medical Marijuana Act.
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- Amend Section 79 (6) as follows:
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- SECTION 79. ORS 475.864, as amended by section 2, chapter 591, Oregon Laws 2013, is amended to read:
- 475.864 Unlawful possession of marijuana. (1) As used in subsections (2) to (4) of this section:
- (a) "Marijuana" means the leaves, stems, and flowers of the plant Cannabis family Moraceae.

- (b) "Marijuana product" has the meaning given the term "marijuana" in ORS 475.005 (16), but does not include the leaves, stems and flowers of the plant Cannabis family Moraceae.
- (2) It is unlawful for any person under 21 years of age knowingly or intentionally to possess marijuana or marijuana product.
- (3)(a) Unlawful possession of four avoirdupois ounces or more of marijuana by a person under 21 years of age is a Class C felony.
- (b) Unlawful possession of one avoirdupois ounce of marijuana or more, but less than four avoirdupois ounces, by a person under 21 years of age is a Class B misdemeanor.
- (c) Unlawful possession of less than one avoirdupois ounce of marijuana by a person under 21 years of age is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.
- (4)(a) Unlawful possession of one-quarter avoirdupois ounce or more of marijuana product by a person under 21 years of age is a Class C felony.
- (b) Unlawful possession of less than one-quarter avoirdupois ounce of marijuana product by a person under 21 years of age is a Class B misdemeanor.
- (5) As used in subsections (6) to (8) of this section, the terms "licensee," "licensee representative," "marijuana," "marijuana extracts," "**marijuana concentrate**," "marijuana products," "marijuana retailer," "public place," and "usable marijuana" have the meanings given to them in section 5 of this Act.
- (6) Except for licensees and licensee representatives, it is unlawful for any person 21 years of age or older knowingly or intentionally to possess:
 - (a) More than one ounce of usable marijuana in a public place.
 - (b) More than eight ounces of usable marijuana.
 - (c) More than sixteen ounces of marijuana products in solid form.
 - (d) More than seventy-two ounces of marijuana products in liquid form.
 - (e) More than one ounce of marijuana extracts.
 - (f) **More than one ounce of marijuana concentrate.**
 - (g) Any marijuana extracts that were not purchased from a licensed marijuana retailer.
- (7) A violation of paragraphs (a) to [(e)] (f) of subsection (6) of this section is a:
 - (a) Class C felony, if the amount possessed is more than four times the applicable maximum amount specified in subsection (6) of this section;
 - (b) Class B misdemeanor, if the amount possessed is more than two times, but not more than four times, the applicable maximum amount specified in subsection (6) of this section; or
 - (c) Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection (6) of this section.
- (8) A violation of paragraph (f) or (g) of subsection (6) of this section is a:
 - (a) Class C felony, if the amount possessed is more than one-quarter ounce of such marijuana extracts or **marijuana concentrate**; or

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Attachment G

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- (b) Class B misdemeanor, if the amount possessed is not more than one-quarter ounce of such marijuana extracts **or marijuana concentrate**.

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