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78th LEGISLATIVE ASSEMBLY
JOINT COMMITTEE ON IMPLEMENTING MEASURE 91

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Purpose

The purpose of this document is to capture the items Sen. Prozanski identified as potential areas for improvement in the -1 amendment for SB 844. These identified items will be listed sequentially.

Identified Items

Section 1, page 3, lines 12 through 15: Definition of Marijuana Extract

Proposed Action: Remove the definition of 'Marijuana Extract' and replace it with the definition of 'Cannabis Extract' found in HB 3400 or SB 936.

Item for Further Discussion: How to incorporate heat into the definition to separate low heat extractions from high heat extractions that use butane, propane or other alkanes.

Section 2, page 8, lines 7 through 11: Establishing other fees

Proposed Action: Provide greater clarity around what additional fees OLCC would like to levy and why.

Section 3, page 9, lines 2 through 6: OLCC purchase, possession and seizure of marijuana

Proposed Action: Clarify ability for OLCC to purchase, possess or seize marijuana as limited to enforcement or sting operations.

Page 9, line 27: Sellers vs Retailers

Proposed Action: Replace the word "Sellers" with "Retailers"

Section 5, pages 9 through 10, lines 29 through 2: Point of Measurement of Schools

Proposed Action: Clarify that this only applies to contiguous school property where classes are held and occupied by school buildings.

Section 6, page 10, lines 18 through 26: Add Research License

Proposed Action: Add research license to this section requiring OLCC to not unreasonably delay approving or denying licenses.

Section 6, page 11, lines 2 through 7: Physical enclosures and licenses

Proposed Action: Clarify that this section exempts growers and potentially processors too.

Section 7, page 11, lines 8 through 16: Growing marijuana near schools

Proposed Action: Clarify in this section that it does not apply to home grows.

Section 8, page 11, lines 17 through 25: Transfer or delivery of marijuana near schools

Proposed Action: Clarify that this section it does not apply to people gifting marijuana to others in their own homes.

Section 9, page 12, lines 5 through 8: Checking age prior to sale of marijuana

Proposed Action: Clarify this section only applies to retailers.

Section 13, pages 13 and 14, lines 28 through 16: Bonds

Proposed Action: Change the bond requirement for only retailers, as it looks like the Committee is moving to a point of sale tax.

Section 14, pages 14, lines 22 through 24: Size of insurance required

Proposed Action: Reduce size of liability insurance required.

Section 24, pages 20 and 21, lines 24 through 20: Point of Taxation

Proposed Action: Change the point of taxation to the point of retail sale.

Section 25, pages 21 and 22, lines 30 and 10: Seizure of property

Proposed Action: This section makes it clear OLCC can seize marijuana to cover a business's tax lien. If the Committee does change the point of taxation to the point of sale that would mean that they could seize marijuana from retail stores. Under the system we are devising, that marijuana would already be tested for potency and purity. This section also stipulates that marijuana seized can only be sold to another license holder. That marijuana should not be destroyed.

Section 26, page 22, lines 20 through 25: Length records must be kept

Proposed Action: This section allows OLCC the ability to look at a licensee's records, and changes the amount of time from two to seven years. On page 49, line 13, that same change must be noted.

Section 29, pages 30 and 31, lines 29 through 8: Maximum civil penalty

Proposed Action: Instead of leaving simply a maximum civil penalty of \$5,000, this section would be better served by being replaced with a matrix describing the infraction, the length of the infraction and the expected costs associated with it.

Section 30, page 31, lines 9 through 14: Marijuana Enforcement Fund

Proposed Action: There is no mention of what OLCC can and can't spend these funds on. Clarify the language to ensure these moneys can only be used for enforcement and not OLCC general administration.

Section 36, page 35, lines 3 through 11: Marijuana found at pharmacies

Proposed Action: Include that there should be reasonable steps taken to get that marijuana back to its owner or have it go back into the inventory prior to destroying it.

Section 47, page 40, lines 9 through 10: “Sale or Service”

Proposed Action: This language is taken from statutes governing bars. Possibly change the word “service” to “providing” to more accurately reflect what is occurring.

Section 49, page 40, lines 26 through 29: Inspection of Records

Proposed Action: This could be the foundation of the inspection of records amendment the Co-Chairs requested of Sen. Prozanski and Rep. Helm. What could be added is the language allowing emergency access to those records by OLCC so long as there is a reasonable suspicion or probable cause.

Item for Further Discussion: The question would be, if that were the case, how long would the business have in turning over its books? 12 hours? 24 hours?

Section 51, page 41, lines 10 through 30: Transfer of licenses

Proposed Action: Fully clarify that this license is not transferable to another person or entity; that it can't be sold or traded for financial consideration.

Section 51, page 42, lines 10 through 13: In the event of default

Proposed Action: Add language to ensure that another secured party may only continue operations for a short period of time and/or that entity must meet all other requirements for licensees (including residency).

Section 51, page 42, lines 10 through 13: In the event of default

Proposed Action: There needs to be some more thought put in around the idea of licensure and land sales between parties. Specifically, if one person completes a land sale contract to another person who establishes a licensed marijuana facility on that land, if that second person defaults the first person takes back possession of the land and is immediately breaking the law for having an unlicensed marijuana operation.

Section 61, page 49, line 13: Length records must be kept

Proposed Action: Change to two to seven like in elsewhere in the amendment.

Section 69, page 54, lines 7 through 9: Language modeled after regulations of bars

Proposed Action: This language should be replaced to reflect the reality marijuana retail facilities are more like liquor stores.