



## TO: Measure 91 Joint Committee

**I am unable to attend the public hearing for HB3400 -1. I therefore am submitting public testimony.**

### Regarding:

1. Sec. 33, 34 Preemption of County and City Rights
  2. Sec. 35 allowing in-home marijuana processing outside of the urban growth boundary
  3. HB3400 -1 Ignores regulation for in-home grows
  4. HB3400 -1 does not limit the number of marijuana manufacturing, processing, wholesaling and retail sites
- 
1. Preempting counties and cities right to ban measure 91 manufacturing, processing, wholesaling and retailing of marijuana knowing that marijuana is a federally illegal drug calls into question the issue surrounding Home Rule Authority. Oregon's laws have long allowed a city or county the power to adopt ordinances on any matter, and we the voters of each city and county support this right. Highly funded out-of-state ballot initiatives that seek to require a State law to abandon its responsibility to federal law requirements should not be allowed. The many potential public safety, quality of life, and property value risks involved in seeking such a requirement will not set well with citizens across the State of Oregon and I believe that the recent impasse with SB844 is a reflection of that feeling.
  2. I also find it alarming that section 35 proposes the idea that counties if consistent with their zoning may allow marijuana processing through a home occupation permit. What is alarming is the total unawareness of the destruction that marijuana is bringing to both our cities and rural county communities throughout Oregon. According to the Oregon Health Authority, there are already over 46,570 medical marijuana growers in the State, all of which are unregulated, untaxed, and unlicensed and measure 91's attempt to simply layer another federally illegal process over the top of an already non-working one is simply just another corrupt legality.
  3. M91 touts that kids will have less access to marijuana, but we can all see through the cloud of smoke, that kids will not only have access, but easy access to marijuana. M91 allows any individual 21 years and older to have an enormous amount of unregulated marijuana in their homes. Under the proposal, anyone over 21 is permitted to have in their home a half pound (8 ounces) of dried marijuana, 4 unregulated-unlicensed-untaxed plants (*of which can yield from 1 ounce to 10 pounds depending on the growing climate*), an ounce of concentrates which can include 95%-100% pure THC, pound of edibles, and a six-pack of tinctures (72 ounces), all of which will be impossible to enforce by law enforcement. HB3400 -1 does nothing to require safety for all in-home grows when it comes to growing regulations and setbacks, access by children, containment for security and odor controls that

will impact local communities. According the August 2014 impacts of marijuana Colorado HIDTA report, related exposures for children ages 0-5 on average have increased 268% from 2006-2009 to 2010-2013. (1)

4. HB3400 -1 has no maximum restrictions on the number and locations for marijuana manufacturing, processing, wholesaling and retailing sites. Other than a 1000' distance from schools for retailers, (public, secondary, private, parochial elementary or secondary), this leaves neighborhoods and areas near daycare's, preschools, libraries, churches, parks and shopping centers all vulnerable to increased exposure to illegal marijuana activity. Oregon's so-called unregulated and untaxed medical marijuana program has already caused public safety concerns to communities throughout Oregon; with violent and dangerous in-home invasions, armed murders and robberies, electrical fires, and in-home butane Hash Oil marijuana extraction explosions.

You cannot regulate a federally illegal drug. What depletes our law enforcement resources are the laws that are created that are virtually impossible to enforce, of which Measure 91 will become and HB3400 -1 does little to assure public safety, quality of life, and protection of property values in our communities.

There should be no compromises when it comes to the Public Safety, Quality of Life, and Property Values of the citizens of Oregon.

Respectfully,



Citizens for Public Safety, Quality of Life, and protection of Property Values  
P. O. Box 1351  
Welches, Oregon

CC:

- Clackamas County Chair John Ludlow, and Commissioners Tootie Smith, Martha Schrader, Jim Bernard, & Paul Savas,
- Sheriff Craig Roberts
- District Attorney John Foote
- Clackamas County Administrator Don Krupp
- Strategic Policy Administrator Dan Chandler
- County Council Nathan Boderman
- Planning and Zoning Director Mike McCallister
- Director of Public Affairs Gary Schmidt
- Oregon Sheriff's Association
- Oregon District Attorney's Association
- Oregon Association of Chiefs of Police
- US Attorney's Office Acting US Attorney Bill Williams

References:

The Legalization of Marijuana in Colorado (1)  
Volume 2 August 2014

# PREEMPTS COUNTY AND CITY RIGHTS TO BAN MARIJUANA RETAIL OUTLETS Sec 33, Sec 34

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“(Land Use)

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18 **“SECTION 33.** Section 58, chapter 1, Oregon Laws 2015, is amended to  
19 read:

20 **“Sec. 58.** *[Sections 3 to 70 of this Act, designed to operate uniformly*  
21 *throughout the state, shall be paramount and superior to and shall fully re-*  
22 *place and supersede any and all municipal charter enactments or local ordi-*  
23 *nances inconsistent with it. Such charters and ordinances hereby are*  
24 *repealed.]*

25 **“(1) Except as expressly authorized by statutory laws of this state,**  
26 **the authority to regulate marijuana items and the production, pro-**  
27 **cessing and sale of marijuana items under sections 3 to 70, chapter 1,**  
28 **Oregon Laws 2015, and the authority to impose a tax or fee on the**  
29 **production, processing or sale of marijuana items under sections 3 to**  
30 **70, chapter 1, Oregon Laws 2015, is vested solely in the Legislative**

9 **“SECTION 34.** Section 59, chapter 1, Oregon Laws 2015, is amended to  
10 read:

11 **“Sec. 59.** *[(1) Cities and counties may adopt reasonable time, place and*  
12 *manner regulations of the nuisance aspects of establishments that sell*  
13 *marijuana to consumers if the city or county makes specific findings that the*  
14 *establishment would cause adverse effects to occur.]*

15 *“[(2) The authority granted to cities and counties by this section is in ad-*  
16 *dition to, and not in lieu of, the authority granted to a city or county under*  
17 *its charter and the statutes and Constitution of this state.]*

18 **“(1) For purposes of this section, ‘reasonable regulations’ includes:**

19 **“(a) Reasonable limitations on the hours during which a marijuana**  
20 **retailer licensed under section 22, chapter 1, Oregon Laws 2015, may**  
21 **operate;**

22 **“(b) Reasonable conditions on the manner in which a marijuana**  
23 **retailer licensed under section 22, chapter 1, Oregon Laws 2015, may**  
24 **sell marijuana items;**

25 **“(c) Reasonable requirements related to the public’s access to a**  
26 **premises for which a license has been issued under section 19, 20, 21**  
27 **or 22, chapter 1, Oregon Laws 2015; and**

1 Assembly.

2 “(2) Except as expressly authorized by statutory laws of this state,  
3 a county, city or other municipal corporation or district may not enact  
4 ordinances regulating marijuana items and the production, processing  
5 and sale of marijuana items under sections 3 to 70, chapter 1, Oregon  
6 Laws 2015, or ordinances imposing a tax or fee on the production,  
7 processing or sale of marijuana items under sections 3 to 70, chapter  
8 1, Oregon Laws 2015.

1 “(2) Notwithstanding ORS 633.738, the governing body of a city or  
2 county may adopt ordinances that impose reasonable regulations on  
3 the operation of businesses located at premises for which a license has  
4 been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015,  
5 if the premises is located in the area subject to the jurisdiction of the  
6 city or county.

7 “(3) Regulations adopted under this section must be consistent with  
8 city and county comprehensive plans, zoning ordinances and applicable  
9 provisions of public health and safety laws.

## **EXCLUSIVE FARM USE LAND Sec. 35 ALLOWS THE PROCESSING OF MARIJUANA OUTSIDE OF THE URBAN GROWTH AS A HOME OCCUPATION Sec. 35; (4)**

10 “SECTION 35. (1) Notwithstanding any other provision of ORS  
11 chapters 197, 215 and 227, marijuana is a crop for the purposes of ‘farm  
12 use’ as defined in ORS 215.203, a crop for purposes of ‘farming  
13 practice’ as defined in ORS 30.930, a product of farm use as described  
14 in ORS 308A.062 and the product of an agricultural activity as de-  
15 scribed in ORS 568.909.

16 “(2) A primary dwelling in conjunction with a marijuana crop lo-  
17 cated on exclusive farm use land is not a permitted use under ORS  
18 215.213 or 215.283.

19 “(3) The processing of marijuana leaves or flowers on a premises  
20 that is located on exclusive farm use land and for which a license has  
21 been issued under section 20, chapter 1, Oregon Laws 2015, is permis-  
22 sible to the extent that is provided for other crops under ORS 215.213  
23 (2) or 215.283 (2).

24 “(4) For the purposes of processing marijuana on lands outside ur-  
25 ban growth boundaries, a county may allow marijuana processing  
26 through a home occupation permit that is consistent with the county’s  
27 zoning ordinances.

28 “(5) Prior to the issuance of any license under section 19, 20, 21 or  
29 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commis-  
30 sion shall request a land use compatibility statement from the city or

1 county that authorizes the land use. The land use compatibility  
2 statement must demonstrate that the requested license is for a land  
3 use that is allowable as a permitted or conditional use within the given  
4 zoning designation where the land is located. The commission may not  
5 issue a license if the land use compatibility statement shows that the  
6 proposed land use is prohibited in the applicable zone.