

May 20, 2015

To: Joint Committee on Implementing Measure 91

Re: Testimony on HB 3400 -1

My name is Todd Dalotto, I live in Rep. Andy Olson's district near Albany, Oregon and have been working professionally in the cannabis industries for over 21 years. I'm a horticultural scientist, industry consultant, and public policy advisor. I'm a current member and former Chair of the Oregon Health Authority's Advisory Committee on Medical Marijuana and Chair the ACMM's Dispensary Program Committee. I've served on numerous DHS and OHA Legislative and Administrative Rule Advisory Committees, including the three RACs that advised the OHA on rulemaking to implement HB 3460 and HB 1531, the bills, which created and amended Oregon's Medical Marijuana Dispensary Program.

I offer you the following comments, proposed amendments, and rationale for my proposed amendments to the dash-1 amendments to HB 3400:

SECTIONS 1, 91, 103, 111. (Definitions)

- The definition of "cannabinoid" should be amended to read, "any of a class of compounds produced by the cannabis plant which are derived from cannabigerol"
 - Rationale: cannabinoids are not the only active constituents of marijuana, other active constituents include terpenes and compounds yet to be identified.
- Delete the definition of "cannabinoid concentrate":
 - Rationale:
 - For processing of all other plants, concentrate means extracting the water form a substance, thus concentrating the other compounds – the proposed definition suggests the opposite
 - In (b) vegetable oils and animal fats are hydrocarbon-based (structure is hydrocarbons bonded to triglycerides)
 - In (c) carbon dioxide is not a hydrocarbon
- Amend the following parts of the definition of "cannabinoid extract":
 - "(a) A chemical extraction process using an alkane-based solvent, such as butane, hexane, or propane;"
 - Rationale: "hydrocarbon" is far too broad of a chemical category, while "alkane" is more specific to the solvents that are a safety concern
 - "(b) A chemical extraction process using the solvent carbon dioxide, if the process uses high pressure; or"
 - Rationale: carbon dioxide is not a hydrocarbon and high heat is not commonly used in CO2 extraction, and does not pose a safety risk with CO2.
 - Include the parts of the "cannabinoid concentrate" definition with these proposed amendments:
 - "(a) A physical extraction process;"
 - "(b) A chemical extraction process using a non-alkane-based solvent, such as vegetable glycerin, vegetable oils, animal fats, or ethanol;"
 - "(c) A chemical extraction process using the solvent carbon dioxide, provided that the process does not involve the use of high pressure; or"
 - Rationale: all processes described in both definitions clearly qualify as extracts and not concentrates.

- Amend the definition of ‘Immature Marijuana Plant’ to read: “(11) ‘Immature marijuana plant’ means a marijuana plant that does not have developed flower clusters.”
 - Rationale: When cannabis plants become physiologically mature at around 8 weeks (often ~15” tall), they normally form pairs of flowers at some nodes, but continue to grow vegetatively until they go into full flower, producing flower clusters much la (each female flower looks like a small hair protruding from
- I fully support the amendments correcting the taxonomic classification of cannabis in the plant family, Cannabaceae.
- Delete “and the seeds of the plant Cannabis family Cannabaceae” from the definition of ‘Marijuana’
 - Rationale: marijuana means the flowers of the cannabis plant, not seeds.
- Amend the definition of “Usable marijuana” to include “suitable for use”
 - Rationale: this is consistent with the OMMA qualification of “...suitable for medical use.”

SECTION 12, 14, 15 & 16. (Residency Requirements)

- I recommend specifying in statute the person(s) subject to the residency requirement
 - Rationale: In the proposed amended Section 19(2)(b) of M91, the proposed residency requirement applies to “each individual listed in an application submitted under section 28, chapter 1...” however, those individuals will be determined by what the OLCC includes in the application. There are likely to be individuals listed in the applications that are not intended to be limited by residency – such as registered agents, CPAs, security companies, bond & insurance companies, etc.
- I strongly recommend the residency requirement apply to 51% of the company’s owners or equity holders, and perhaps the person in charge of operations.
 - Rationale: Oregon has a wealth of cannabis industry know-how, but often requires capital investments from out of state in order to be in business.

SECTION 13. (License Holders)

- Limits on the size of gardens should be a matter of flowering canopy size, not plant numbers and not premises size.
 - The premises usually includes far more area than is being cultivated. For example, offices, hallways, storage areas, bathrooms, security buffers, etc. It is not helpful to include these areas, especially when they serve a purpose that enhances security, responsible operations, and public safety.
 - Flowering canopy area if far more relevant for yield than is plant numbers.

SECTION 17 (School establishment)

- Delete, “unless the Oregon Liquor Control Commission revokes the license of the marijuana retailer.”
 - Rationale: no basis for revocation is mentioned

SECTION 35. (Farm Use)

- I strongly support (1) and (3) which clarifies marijuana is a crop for the purposes of ‘farm use’ and ‘farming practice’.
- Delete (2) because dwellings are useful for providing 24-hour security and emergency response

SECTION 69-70. (Taxation)

- I strongly support moving the point of taxation from producers to retail.
- I don’t see the need for different taxation for different product types.

- I strongly urge the tax rate to be at maximum the relative equivalent to the M91 tax rate – the M91 tax rate is already excessive and increasing the taxation would compromise the intent to reduce black market.

SECTIONS 91-102 (Testing)

- I strongly recommend including 3rd-party certifications of Producers & Processors for Good Agricultural, Manufacturing, and Handling Practices (GAPs, GMPs, and GHPs) as allowable testers as long as the certification requirement includes lab testing at a minimum for sporadic random sample audits to ensure the Good Practices are being followed in terms of pesticide use, pests, pathogens, and other contaminants.

SECTIONS 111-118 (Nurseries)

- I strongly support licensing & regulation of nurseries

SECTION 119 (Research Certification)

- I strongly support the inclusion of research certification
- In 119(2)(b), say “includes but is not limited to”
 - Rationale: the areas of agricultural research listed are very specific disciplines and leave out many important disciplines, such as breeding, integrated pest management, seed biology, phylogeny, microbiology, physiology, and many, many more.

Please feel free to contact me if you have any questions.

Best,

Best,



Todd Dalotto, President