

DATE: May 26, 2015

SUBJECT: Measure 91 Industry Group Meeting

Industry Draft Agreement - Revisions to HB 3400-1 identified in Bold

- Definitions - Section 1
 - **Cannabinoid concentrate – add water to definition [Page 2]**
 - Remove plant height from the definition of an immature plant [in HB 3400-1 – Page 4]
 - Useable marijuana - Define useable marijuana as “combination” rather than “mixture or preparation” [in HB 3400-1 – Page 7]
 - **Useable marijuana – Exclude waste that is a by-product of producing and processing [Page 7]**
- Power to Purchase, Possess, Seize, Dispose – Section 3
 - Allow OLCC to possess marijuana items for compliance and education work [in HB 3400-1 – Page 10]
- Regulation of Licensees – Section 10
 - Allow OLCC to require fingerprints [In HB-3400-1, Page 16]
- Segregated premises - Section 18
 - **Add language clarifying that OLCC can require segregation if necessary for “public health and safety” [Page 23]**
- Marijuana handler permits - Section 19
 - Require for sales only [in HB 3400-1 – Page 24]
 - Require background check – no fingerprints [in HB 3400-1 – Page 25]
 - **Require education on ID checking, intoxication, and safe handling [Page 25]**
- Bonds - Section 21
 - **Make it permissive (based on availability and reasonable cost) rather than mandatory [Page 26]**
 - **Narrow the scope to ensure taxes are paid [Page 26]**
- Liability insurance - Section 22
 - Require **general** liability insurance for retailers (**if reasonably available and affordable**) and consider adjusting the amount to [amount] [Page 26]
 - **Consider general liability insurance (if reasonable available and affordable) for other license types, particularly processors [New]**
- Seed to Sale Tracking System – Section 23
 - The commission shall use the system to: **“prevent substitution and tampering” [Page 27]**
 - **Include language that differentiates between viable and not viable plants [Page 27]**
- Age verification equipment - Section 26
 - Allow OLCC to require age verification equipment as a mitigating penalty or mitigating factor for a new application for those with prior violations [broad authority in HB 3400-1 – Page 30]
 - **Add component that retailers can’t store information [Page 30]**
- Labs – Section 91-102
 - **Industry - Grant OLCC authority to license labs and adopt rules. OHA certifies the labs to the ORELAP standard by [date]. OHA sets the testing standards by [date]; if standards aren’t set, OLCC may adopt temporary standards [Pages 72-80]**

Discussions (items labeled industry denote industry draft agreement)

- Residency – Sections 12, 14, 15, 16
 - *Industry* - Residency requirement should be for applicants only instead of “each person listed on the application” [Page 17, 19, 21,22]
 - *Industry* - All investors should be listed on the application and subject to background checks but not residency requirements [New] ; Is this limited to direct investors? What if a pension fund invested in an applicant?
 - *Discussion* - Residency requirement should be **one year rather than two**; others disputed whether residency requirement was constitutional [Page 17, 19, 21, 22]
 - *Discussion* – How does residency requirements apply if the applicant is a corporation? A corporation formed in Oregon? The person responsible?
 - *Discussion* – Grandfather in current investors
- Peace officer authority – Section 30
 - *Industry* - Authority is currently too broad - limit scope of authority to activities of licensee and areas controlled by licensee [Page 32]
 - *Industry* - Co-sworn – inspectors can't be co-sworn but other OLCC officials can share information for purposes of joint investigation [New]
 - *Industry* - Home grow – no OLCC inspection [In HB 3400-1, Page 32-33]
 - *Discussion* - Reasonable suspicion versus probable cause; OLCC inspection implementation guidelines
- Taxation – Section 70
 - *Industry* - Change point of taxation to retail – support concept [in HB 3400-1, page 53]
 - *Discussion* - Concern about multiple rates, one rate would be better; defining the rate may require a work group [page 53]
 - *Industry* – No tax for OMMP patient (see Opt-In for Medical Growers)
- Packaging and Labeling – Sections 103-110a
 - *Industry* - Give OLCC authority for packaging and labeling of recreational products; OHA sets broad standards by [date]; include language on preapproval of labels and fee authority [Pages 80-85]
 - *OLCC/OHA Discussion* – Give OLCC authority for recreational packaging and labeling in consultation with OHA; OHA has authority to set minimum requirements for types of health and safety information listed on label; OHA must provide requirements by [date]
 - *Discussion* - need for similar labeling requirements; however the standards for recreational and medical products may be different
 - *Discussion* - potentially different needs for recreational packaging versus medical; recreational packaging would be addressed in OLCC rulemaking
 - *Discussion* - need for readily identifiable medical only products
 - *Discussion* – OLCC sets packaging and label requirements for both recreational and medical marijuana
- Cannabis Propagation - Section 111-118 [Work group]
 - *Discussions* – Work Group: 1) delete reference to nurseries, replace with cannabis propagation, 2) add authority for OLCC to conduct criminal background checks, 3) give OLCC broad authority to adopt rules consistent with M91 so that when federal laws change, the propagation certification could be folded into ORS Chapter 571, 4) add provision carving out home grows, 5) allow propagation certification holders to purchase from other license types, including medical

- *Other discussions – Work Group:* Propagator certification has an early implementation date of October 1. Other license types retain all their existing powers. No mature flowers or plants are sold. The propagation certification holders may sell into the medical system to growers and dispensaries as well as into the recreational system to producers, wholesalers and retailers. There was discussion of traceability/tracking. Seeds could be traced by weight and trays of starts could be tracked. The broad rulemaking authority should be informed by industry and subcommittees advising the OLCC. A
- *Discussion:* License denial criteria should be the same as other license types
- *Discussion:* Need to review the ramifications of early implementation
- **Research Certification - Section 119 [Work group]**
 - *Discussions* included: 1) License versus certification, 2) OLCC for some types of research, OHA for other types, 3) license denial criteria should be the same as other license types, 4) tracking requirements, 5) term of certification and revocability, 6) singular or multiple project approvals, 7) immunity from marijuana crimes?, 8) allowing sales to other license types, 9) donation to medical?
- **Timeframe for edibles – Section 131**
 - *Discussion* - Gives authorization for Commission to delay approving or denying applications for edibles until January 2, 2017 [in HB 3400-1, Page 102) **Group discussed whether the delay was necessary**
- **Penalties – Multiple Sections**
 - *Discussion* – Penalties should mirror penalties for alcohol laws
- **Opt in for Medical Growers – New**
 - *Industry* - OMMP growers with cards can be licensed to sell their excess marijuana into the recreational system if they opt in to the OLCC's tracked system and meet application and licensing requirements
 - *Industry* - Private information for medical patients will be protected under the tracked system.
 - *Industry* - The grower's medical inventory is limited to OMMP limits and must meet track in place requirements (currently operating as a medical grow site)
 - *Industry* - If opt-in on grow site with multiple growers, all growers need to opt in and be listed on the application; however they must designate a responsible reporter
 - *Industry* - Must have patients permission for grower to opt-in
 - *Industry* – OMMP patients would not pay tax in recreational retail shops; must have card
 - *Discussion* – Opt-in medical growers have exclusive rights to sell medical products in retail shops
 - *Discussion* – License renewal – status update
- **Opt in for Medical Processors**
 - *Industry* – Delay
- **DOJ review of HB 3400-1 on behalf of OLCC**
 - **Technical fixes**
 - **Definition of financial consideration**
 - **OLCC regulate advertising**
 - **Prohibit retailers in residential zones**
 - **Rework seed to sale language**
 - **In order for agriculture to inspect kitchens, add language that specifies marijuana is not an adulterant for food items**