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**TO:** Measure 91 Joint Committee

**I am unable to attend the public hearing for HB3400 -8. I therefore am submitting public testimony. PDF of testimony attached.**

## **ALERT:**

1. Residency requirement dropped from 4 years, to 2 years, and now to 1 year
2. Sec. 35, 58 Preemption of County and City Rights
3. Sec. 35 allowing in-home marijuana processing outside of the urban growth boundary
4. Sec 35 defines marijuana as a farm use or agricultural use and allows the growing of marijuana in any agricultural zone or rural residential zone
5. HB3400 -8 Ignores regulation for in-home grows
6. HB3400 -8 does not limit the number of marijuana manufacturing, processing, wholesaling and retail sites
7. Sec 21 Bonds and Liability: Both of these sections notes that OLCC *may*, rather than *shall* require bonds and liability insurance
8. HB3400-8 does not specify the requirements by producers, processors, and wholesalers when it comes allowing those under the age of 21 at these sites
9. We appreciated the discussion of allowing only 1 ounce of marijuana to be purchased at a retail site, but we did not hear any discussion on how to control multiple store purchases

## DETAILS:

1. We are concerned that the **residency requirement** which was original set at 4 years was dropped to 2 years, and now 1 year. It is particularly concerning that this opens up the door for a floodgate of cartel money to enter Oregon to start-up businesses, which they have seen in Colorado. We encourage the Joint committee to re-establish a 4 year residency requirement.
2. **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.
3. We 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.

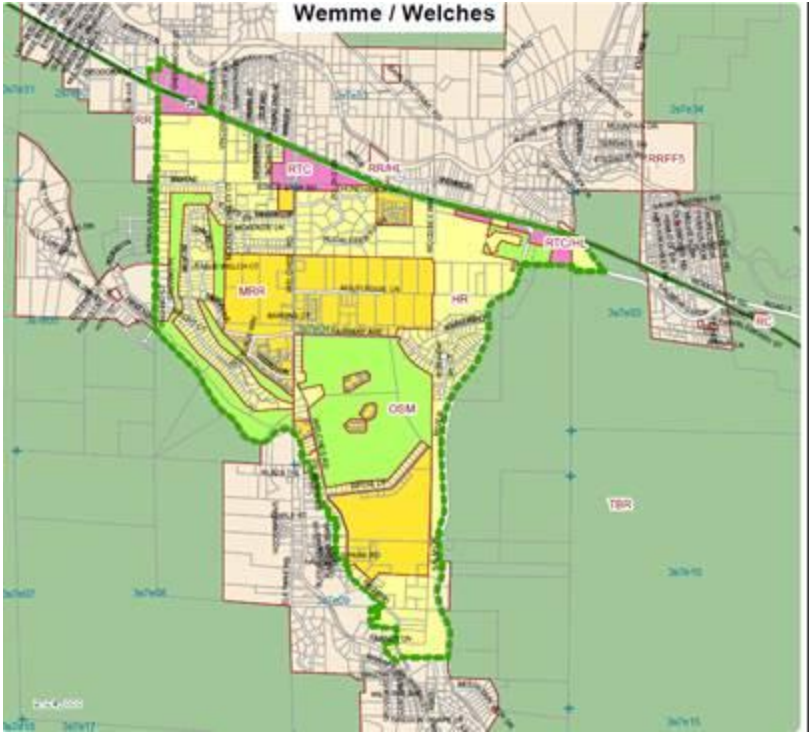
Topics that address requirements for the recreational producers, processors, and wholesalers are also void in HB3400-8, in terms of required management of these facilities from required set-backs from neighboring properties, appropriate security system requirements, odor controls, fencing that keeps these grows from public view as required in the Oregon medical marijuana program, and most of all regulations that keep in mind the neighboring properties that these facilities will be operating around.

4. Section 35 of HB3400 -8 may define marijuana as a farm and agricultural crop, but today, according to the Department of Agriculture marijuana is not defined as a farm crop and marijuana is still a federally illegal drug, which brings with them numerous and dangerous risks to our communities.

It is very alarming that HB3400 -8 allows the recreational production and growing of marijuana in any agricultural zone or **rural residential zone**. Agricultural zones are often large acres which allow for plenty of set-backs, but to allow the **growing of recreational**

**marijuana in our rural residential areas** which are varied in size in Clackamas County as an example, is simply outrageous. Clackamas County has many rural residentially defined zones and those lot sizes can range from a 100' x 60' foot lot to have a 2 or 5 acre lot next door. There is no difference between a residential area in the city and a rural residential area. It is extremely important that the Joint committee continue their discussion regarding the allowing of recreational marijuana to be grown in our rural residential areas. Below are the rural residential maps for the Mt. Hood area of Clackamas County. As you can see the lot sizes vary and what HB3400-8 is doing is basically leaving the small property owners without any recourse, again devaluing their property values by the allowing of a federally illegal drug to be grown in the rural residential zones.







5. 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. The Joint committee should take action to see that these in-home grows are regulated and that these grows may not be located within 1000' of a elementary, secondary, private, or parochial school. The committee should also consider addressing the quantity amount allowed in terms of 8 oz of dried along with harvesting an additional 4 plants of which will quickly put anyone out of compliance and in Colorado this over amount is going to the underage and out-of-state market.

HB3400 -8 does nothing to require safety for all in-home grows when it comes to growing regulations and setbacks from neighboring property lines, easy 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)

6. HB3400 -8 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 and will continue to be seen in the recreational market as well, as there is no difference.
7. HB3400 -8 Section 21 notes that OLCC *may* require bonds and liability insurance rather than shall. Like all businesses in Oregon, these businesses which are still federally illegal with very strict rules and guidelines based on the Cole Memo should leave no room for error and the wording should rather read that OLCC **shall** require proof of bonds and liability insurance.
8. HB3400-8 does not specify the requirements by producers, processors, and wholesalers when it comes **allowing those under the age of 21 at these sites**, again providing easy access by those under the age of 21. Anyone under the age of 21 should not under any circumstances be allowed at any of these sites, and if there is co-location of a recreational site and medical marijuana site, it should be a mandatory rule that children are not allowed. Allowing children into cash only businesses where armed robberies and fatal shootings randomly occur should be enough warning.
9. We appreciated the discussion of allowing only 1 ounce of marijuana to be purchased at a retail site, but we did not hear any discussion on how to control **multiple store purchases** both in the medical marijuana retail and the recreational retail sites, especially since there is a temporary plan to co-locate both of these entities at the same site. Colorado has had numerous issues and problems with those going from site to

another site purchasing, then selling the extra to the underage and out-of-state market. There are numerous other stores as well that should alarm us. Below is an example from Colorado's 2013 impact report. (2)

**Dispensary "Patient" Sells Fifty Percent of His Dispensary Marijuana to**

**Juveniles:** On May 31, 2012, North Metro Task Force executed a residential search warrant in Thornton, COLORADO where a 19-year-old male was selling marijuana. The suspect admitted to selling marijuana for two years but recently expanded his business after getting his medical marijuana card. He stated that he gets the marijuana he sells from a dispensary in the Denver Metro area. The suspect admitted he purchases approximately 5 to 6 ounces of marijuana per week. He sells 60 percent while using or sharing the other 40 percent. He estimated that his profit is approximately 30 percent. He admitted to three to four drug sales per day, seven days per week. He also stated that 50 percent of these sales are directly to juveniles. He said dispensary marijuana is easy to get and is of high quality.

**Colorado Marijuana Edibles to Idaho:** On March 10, 2012, a Wyoming Highway Patrol officer stopped a vehicle in southwest Wyoming en route to IDAHO. The driver of the vehicle was placed under arrest for driving under the influence of marijuana. A subsequent search revealed that the driver had purchased a quantity of high-grade medical marijuana as well as marijuana brownies and candy. The labels showed that these products came from a medical marijuana store in Colorado. The driver stated that she did not purchase the items directly from the store but a friend had purchased them for her.

**Dispensary Marijuana to South Dakota:** In February 2012, a Colorado state trooper stopped a vehicle traveling eastbound on Interstate 76. Approximately 7 pounds of marijuana was found in the vehicle. Some of the marijuana was marked with dispensary labels. The driver was transporting the marijuana from Colorado to SOUTH DAKOTA.

**Twelve Indicted on Medical Marijuana Dispensary Scam:** COLORADO law enforcement, working with the Colorado Attorney General's Office, indicted twelve individuals for various violations involving three medical marijuana dispensaries. It was revealed the dispensaries were fronts for investment scams and illegal marijuana growing operations. The owner of the dispensary and several business partners, including a local lawyer and doctor, were indicted. Charges included racketeering, marijuana cultivation and distribution, money laundering, securities fraud, tax evasion, forgery and attempting to influence a public servant. Two of the dispensaries were in Denver and one was in Lakewood, COLORADO.



We would encourage the Measure 91 Joint committee to keep public safety, quality of life, and protection of property as top priority when determining rules for federally illegal businesses. These facilities are not like other businesses who abide by both Federal and State laws.

Most marijuana businesses and practices have not set good examples as being good neighbors and in fact are often bad neighbors. They emit pungent, foul odors, attract undesirable visitors, increase criminal activity, increase traffic, in many of the current Oregon medical marijuana properties they have removed large numbers of trees hoping to set up for large recreational grow sites, avoided getting the proper local permits for land excavation, diverted water and electricity illegally, set up their security systems and directed them in ways to intimidate and intrude upon local neighbors privacy, and they drive down property values as local citizens across the state are already experiencing. Would you buy a new home if you knew a large pot grow was located next door? No! Neither would I.

There should be no compromises when it comes to trying to regulate a federally illegal drug and Public Safety, Quality of Life, and Property Values of the citizens of Oregon should be top priority.

Respectfully,

A handwritten signature in cursive script that reads "Shirley Moyan". The signature is written in black ink on a white background.

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:**

1. The Legalization of Marijuana in Colorado (1)  
Volume 2 August 2014
2. The legalization of marijuana in Colorado-The Impact  
Vol.1/August 2013

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

15  
16  
17

**"(Land Use)**

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

## **BONDS AND LIABILITY**

1. OLCC **may** require a licensee to maintain a bond with a corporate surety and must be acceptable and the amount OLCC requires
2. OLCC **may** require a person to maintain general liability insurance in an amount that the commission determines reasonable



1                                   “(Bonds and Liability Insurance)  
2

3       **“SECTION 21.** (1) Except as provided in subsection (2) of this sec-  
4 tion, the Oregon Liquor Control Commission may require a person  
5 that holds a license under section 22, chapter 1, Oregon Laws 2015, to  
6 maintain on file with the commission a bond with a corporate surety  
7 authorized to transact business in this state. The bond shall be in a  
8 form acceptable to the commission and shall be in an amount that the  
9 commission determines is reasonably affordable and available. The  
10 bond is payable to the commission if the licensee fails to pay the tax  
11 imposed upon the retail sale of marijuana items under section 70 of  
12 this 2015 Act.

13       “(2) In lieu of maintaining the bond required by subsection (1) of  
14 this section, a person that holds a license under section 22, chapter 1,  
15 Oregon Laws 2015, may deposit in a bank or trust company for the  
16 benefit of the commission an equivalent amount in cash, letters of  
17 credit recognized by the State Treasurer or negotiable securities of a  
18 character approved by the State Treasurer. Interest earned on depos-  
19 ited funds or securities shall accrue to the person that made the de-

21       **“SECTION 22.** As is necessary to protect public health and safety,  
22 the Oregon Liquor Control Commission may require a person that  
23 holds a license under section 22, chapter 1, Oregon Laws 2015, to  
24 maintain general liability insurance in an amount that the commis-  
25 sion determines is reasonably available and affordable for the purpose  
26 of protecting the person against damages resulting from a cause of  
27 action related to activities undertaken pursuant to the license.

**LAND USE**

ALERT see land use issues below

1. Cities and counties may adopt reasonable time, place, manner regulation of the nuisance aspects
2. The authority granted to cities/counties is in addition to, and not in lieu of the authority granted to a city/county under its charter and the statutes and Constitution of this State.
3. Reasonable regulations includes: reasonable conditions may produce, process, retailer, sell, public access, where a premises may be located

- 4. Be consistent with city/county comprehensive plans, zoning ordinance and applicable provisions of public health and safety laws.**

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

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

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

8       “(1) For purposes of this section, ‘reasonable regulations’ includes:  
9       “(a) Reasonable conditions on the manner in which a marijuana  
10 producer licensed under section 19, chapter 1, Oregon Laws 2015, may  
11 produce marijuana;  
12       “(b) Reasonable conditions on the manner in which a marijuana  
13 processor licensed under section 20, chapter 1, Oregon Laws 2015, may  
14 process marijuana;  
15       “(c) Reasonable limitations on the hours during which a marijuana  
16 retailer licensed under section 22, chapter 1, Oregon Laws 2015, may  
17 operate;  
18       “(d) Reasonable conditions on the manner in which a marijuana  
19 retailer licensed under section 22, chapter 1, Oregon Laws 2015, may  
20 sell marijuana items;  
21       “(e) Reasonable requirements related to the public’s access to a  
22 premises for which a license has been issued under section 19, 20, 21  
23 or 22, chapter 1, Oregon Laws 2015; and  
24       “(f) Reasonable limitations on where a premises for which a license  
25 has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws  
26 2015, may be located.

3       **“(3) Regulations adopted under this section must be con**  
4 **city and county comprehensive plans, zoning ordinances an**  
5 **provisions of public health and safety laws.**

**SECTION 35 LAND USE**

Section 35: Allowing Marijuana as a crop for the purposes of “farm use, a product of farm, a new dwelling used in the conjunction w/ a pot crop is not permitted use on land designated for exclusive farm use,

1. A county may allow production of pot as a farm use or agricultural use in any agricultural zone or rural residential zone in the same manner as the production of pot is allow in exclusive farm use zones under
2. For the purposes of processing pot on lands outside urban growth boundaries, a county may allow pot processing through a home occupation permit that is consistent with the county’s zoning ordinances.
3. Prior to the issuance of any license OLCC shall request a land use compatibility statement from the city/county that authorizes the land use.

6       **“SECTION 35. (1) Notwithstanding ORS chapters 197, 215 and 227,**  
7 **marijuana is:**

8       **“(a) A crop for the purposes of ‘farm use’ as defined in ORS 215.203;**

9       **“(b) A crop for purposes of ‘farm’ and ‘farming practice,’ both as**  
10 **defined in ORS 30.930;**

11       **“(c) A product of farm use as described in ORS 308A.062; and**

12       **“(d) The product of an agricultural activity as described in ORS**  
13 **568.909.**

14       **“(2) Notwithstanding ORS 215.213 or 215.283, a new dwelling used in**  
15 **conjunction with a marijuana crop is not a permitted use on land**  
16 **designated for exclusive farm use.**

17       **“(3) A county may allow the production of marijuana as a farm use**  
18 **or agricultural use in an agricultural zone or rural residential zone in**  
19 **the same manner as the production of marijuana is allowed in exclu-**  
20 **sive farm use zones under this section and ORS 215.213 and 215.283.**

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

25       **“(5) Prior to the issuance of any license under section 19, 20, 21 or**  
26 **22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commis-**  
27 **sion shall request a land use compatibility statement from the city or**  
28 **county that authorizes the land use. The land use compatibility**  
29 **statement must demonstrate that the requested license is for a land**  
30 **use that is allowable as a permitted or conditional use within the given**

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