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HUGHES
LAW

1133 NW WALL STREET, STE. 202
BEND, OREGON 97701

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Dear Joint Committee on Measure 91:

I would like to offer the following supplement to my comments regarding H.B. 3400 and dash amendments that were made at the public hearing on today's date.

§ 33 - Land Use

I would once again beg the committee to not adopt special zoning rules regarding cannabis. If cannabis production is a "farm use", "farming practice" or "agricultural activity", then it should be treated as such. The rules should apply across the board. Subsection 2 is an example of this. Why would we want to preclude current farmers who live on their land from being involved in the cannabis production? This is what this section does if a §215.213(1)(f) dwelling, which is permitted for every other farm operation, is prohibited for a cannabis operation. This is offensive to small family farms who will not be able to get a license to produce cannabis because they live on their farm which is zoned EFU. Also, there is no rational basis to preclude someone from having a residence on their cannabis production operation. Having a residence and a visible presence on the operation is the best deterrence for theft or other property crimes. Forcing cannabis producers in EFU to live off-site and not allow them the same rights and privileges as other farmers in identically zoned lands seems fundamentally unfair and ripe for litigation. It also seems to go against the principles of a "right to farm" state like Oregon.

§13 – Production

This section only addresses two forms of cannabis production, indoor and outdoor. There is a third type of production that is not addressed and that is greenhouse production. The greenhouse producers use the sun and often supplement light if they grow year around. The current version does not address this. Greenhouse production will be occur on the east of the Cascades and elsewhere in Oregon.

Currently each form of production has its own position in the cannabis consumer hierarchy. It is important for the Joint Commission to understand each type of production and how it fits into the current cannabis industry.

Indoor produced flower is currently the apex of the cannabis industry. When it comes to flower, consumers are interested in high quality cannabis produced under artificial light. This is the "top shelf" flower product in retail stores. There a large number of quality indoor producers in Oregon.

Their product for the near future will be the #1 selling flower in stores. Therefore, to meet flower consumption demand, indoor producers are going to supply a large part of that market.

However, it is important for the Committee and OLCC to understand that inhalation of combusted flower is a shrinking part of the cannabis market and soon will be the least popular route of administration among consumers. It will be replaced by inhalation through vaporization, ingestion of edible products, tinctures and other healthier forms of use. This means that extracted cannabis will eventually make up a bulk of the adult use cannabis market.

Outdoor production is probably the most energy efficient and easiest form to scale. However, it is no longer 1985, and outdoor “homegrown” is not what the consumers are looking for with regards to cannabis flower. Certainly, Oregon has been producing quality cannabis outdoors for at least 50 years, especially in southern Oregon. Yet, the outdoor produced cannabis simply is not as popular at the retail level as indoor cannabis. Outdoor cannabis tends to degrade and lose its moisture content faster. Oregon outdoor produced cannabis is still popular in prohibitionist states, which is why some of it leaves Oregon. Currently, the best legal marketing option for outdoor producers is extraction to oil.

This legislation seems to completely ignore greenhouse production. Greenhouse produced cannabis sits between outdoor and indoor in the hierarchy. Though production techniques for greenhouse producers are rapidly increasing, they are not producing the type of flower product that is competing with the indoor grown flower. Also, as greenhouse operators incorporate the use of artificial lights, the production quality will increase. Furthermore, much like “grass fed” beef is now very popular, “sun grown” cannabis will soon be the rage. However, greenhouse production will likely fill that demand as opposed to outdoor production, at least for flower product. Greenhouse production will also be used by extractors and edible makers for their products because of the lower production costs.

My current reading of the proposed statute would have greenhouse producers as outdoor producers unless they used artificial lights in some way. Once they used even one artificial light, they would be considered indoor. I would recommend that the committee add language to address greenhouse production, otherwise their limits will fluctuate between plant count and canopy size. This would be a production and enforcement nightmare.

It is important to understand that because of changing consumer trends regarding extracts and edibles, a majority of cannabis produced in Oregon will be processed into something besides flower. Colorado is proof of this trend. This will require 3-5 times more cannabis production, if not more, to meet the edible and extract demand. It may take one pound of cannabis flower to produce a couple of ounces of oil. Cannabis production will therefore need to be scaled so as to meet the larger demand caused by this shift to edibles and extracts.

This brings me to the discussion of scale. Currently, the legislation contemplates requiring outdoor growers to be limited to plant count and indoor growers be limited to a canopy size of somewhere between 5,000 and 10,000 square feet. As someone who comes from conventional agriculture this makes no sense to me. Agriculture, like any other production, is most efficient and the products produced are most affordable to the consumers when the operation is scaled. Understand that

scaled does not necessarily mean large or massive. Scaled means the producer is able to fully utilize their land or property and obtain the most production possible from that area. Even small organic farmers try to scale their operations so as to fully maximize their production potential.

Setting artificial limits on any agriculture production in and of itself is wasting resources. Imagine corn growers being told they can only farm 10 acres of their 120 acre farm? If these principles were applied to other areas of agriculture, there would be food shortages and large amounts of people starving around the world. It is also legislatively forcing a business model onto producers. It thwarts expansion of operations as well. I recommend that licenses should be issued to a premise and then the producers should be able to choose how best to use their property for cannabis production. Many producers in rural areas will likely have all three forms of production on their property so as to fully diversify their operations. Should a farmer have to get a separate license for his greenhouse, his outdoor field and his indoor operation?

The only way to deal with the black market is to legally produce so cheap cannabis that the black market cannot compete. Period. End of story. If people can walk into a store in Oregon and buy cannabis cheaper than they can from the guy in the parking lot of Walgreens, the black market will not be able to compete. The only way to do this is for producers to scale their operation. This Committee is being lobbied by current growers who wish to maintain their current prices per pound by limiting supply. If this committee truly wishes to put the black market out of business they will not impose size or plant limit restrictions of production facilities. Production quotas will also drive the price of cannabis production up and the committee should not entertain this concept. Oregon producers will be able to supply the amount of cannabis necessary to meet the demands of the consumers. However, size and plant number restrictions will only serve to keep the price of cannabis up and only foster black market activity.

Thank you for your time to and consideration of this matter.

Sincerely,

Michael R. Hughes
Trial Lawyer/Cannabis Law and Production Expert