



Testimony to the Joint Committee on Implementing Marijuana

Submitted by OLCC

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HB 3400-9

Technical and Policy Considerations

June 10, 2015

HB3400-9 Technical Considerations

Page 6, line 18-21: In the exclusion of primary residence from the definition of licensed premises, replace “operating the business” with “producing, processing or selling marijuana items.”

Page 8, line 27-29: The commission’s power to collect tax has been removed, but Section 70 has the commission collecting tax at the grower level.

Page 15, line 8: Subsection (e) allows the commission to deny an applicant who has “failed to comply with sections 69 to 80 of this Act.” The referenced sections all amend sections 3 to 70 of M91; and the commission has independent authority to deny an applicant for a poor record of compliance with sections 3 to 70 of M91 as described in subsection (g). Is the reference to these sections correct?

Page 16, line 21: Subsection (e) allows the commission to revoke or suspend a license if the licensee has “failed to comply with sections 69 to 80 of this Act.” The referenced sections all amend sections 3 to 70 of M91; and the commission has independent authority to revoke or suspend for a poor record of compliance with sections 3 to 70 of M91 as described in subsection (a). Is the reference to these sections correct?

Page 20, line 6: Delete “permitted.” This seems to be a typo.

Page 29, line 1: Bond is payable to Department of Revenue, but Section 70 has OLCC collecting tax.

Page 29, lines 23-25: The tracking system is described in (1) as “a system for tracking the transfer of marijuana items between licensed premises.” However, the specific requirements described in (3) on page 30 go far beyond tracking transfers between licensed premises. For clarity, OLCC suggests that (1) read: The Oregon Liquor Control Commission shall develop and maintain a system for tracking marijuana items in order to accomplish the purposes described in subsection (2) of this section.”

Page 30, lines 25-26: The references to retail sale and section 70 will need to be changed if tax stays on the producer, which is what section 70 does.



Page 37, line 21 and 22: Delete the word “or.” This subsection was intended to preclude OLCC from enforcing home grow provisions of M91, but the inclusion of “or” has the effect of prohibiting any investigation of a residence regardless of whether that residence is part of a licensed premises. For consistency, OLCC suggests including references to sections 56 and 57 of M91. These sections address homegrown marijuana in public view and home production of extracts.

Page 41, line 29: Add the words “of the retail price of marijuana items sold to consumers.” in order to clarify the scope of the allowable local tax.

Page 48, line 9: Add a cross reference to the opt-in section so it’s clear OLCC can inspect the premises of an OMMP grower that opts in.

Page 53, line 3: Either “may” or “shall” should be deleted.

Page 67, lines 27-29: OLCC’s fees for lab licenses “*must be reasonably calculated to pay the expenses incurred by the commission.*” In contrast, the agency’s fees for other license types “*may not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015.*” For ease of administration, OLCC suggest making the fee authority for labs consistent with the fee authority for other license types.

Page 149, lines 21-27: The language defining “regulatory specialist” is broader than the language used to describe the scope of a regulatory specialist’s authority in Section 30. OLCC suggests using the language in Section 30 to describe regulatory specialists’ authority consistently throughout the act.

3400-9 Policy Considerations

Page 26, line 28: The bill states that OLCC *shall* conduct criminal background checks of applicant for marijuana handler permits. Please note that there is no such requirement for alcohol service permits. (See ORS 471.360 to 471.390)

Section 131a: The bill creates a Task Force on Cannabis Environmental Best Practices to study the use of electricity and water associated with growing cannabis. OLCC is required to provide staff to support the work of the task force and the task force is required to report the Legislative Assembly no later than September 15, 2016. Please note that OLCC staff do not possess expertise in environmental best practices and will be focusing on M91 implementation during the same timeframe. As such, OLCC suggests that this task force may be better staffed by another agency.

Section 132: The bill creates a Task Force on Local Control of Marijuana to consider the laws of this state related to marijuana, local authority to adopt ordinances and the market for cannabis in the state. OLCC is required to provide staff to support the work of the task force and the task force is required to report the Legislative Assembly no later than September 15, 2016. Because OLCC will be focusing on M91 implementation during the same timeframe and addressing many of these issues in rule making, OLCC staff will have an inherent conflict. Therefore, OLCC suggests that a representative of OLCC be named as a task force participant and the task force be staffed by another agency.

Medical Grower Opt-in: The description of the medical grower opt-in concept follows.

Medical Grower Opt-In

Goals

- Provide OMMP medical growers access to the recreational market
- Reduce diversions of excess patient product to illegal markets
- Ensure patients are not abandoned in favor of the recreational market opportunities
- Bring growers into compliance with land-use requirements in an expeditious manner
- Provide opt-in growers the exclusive opportunity to supply the recreational commercial system with medical product that meets all OHA standards

Characteristics of Opt-In Medical Grower

- Existing medical grower verified by OHA.
- Valid contracts with card holders are in place that allow excess to be sold into the OLCC licensee recreational or medical market.
 - Patients must release excess product.
 - Product provided to patient is tracked by OLCC to card holder identification number.
- The opt-in grower must apply for an OLCC license Recreational Producer licenses with the following differences:
 - Medical marijuana plant limit equivalent to the number that may be grown under whatever medical marijuana laws are in force for a single grower.
 - OLCC seed to sale tracking applies to all production on the property and grower must use OLCCs tracking system in lieu of any tracking system required by OHA (OHA will be able to receive the OLCC information).
 - Transition to land use compliance.
 - Must obtain a LUCS from a local jurisdiction:
 - Local government has 21 days to produce a LUCS
 - OLCC may not license if a land use proceeding is pending against the grower/site (which will be indicated on the LUCS).
 - OLCC may license if grow is in an approved land use area.
 - OLCC may annually for a period of two years grant a license to the grower if the land use is incompatible and there is no land use proceeding against the grower/site.
 - Grower must be working with the local jurisdiction to resolve the land use matter that makes the site incompatible or indicate their intent to transition the site to another location.
 - After two years of incompatibility no OLCC license may be issued.
 - The opt-in grower may only sell product to OLCC approved licensees (retailers processors and wholesalers) that are:
 - Designated at the time the product leaves the grower as “medical” and may only be purchased by medical patients who present a valid medical marijuana card; or
 - Designated as “excess from the medical program” at the time the product leaves the grower and are sold for recreational consumption.
- Grower may grow additional recreational marijuana at the grow site provided:
 - LUCS indicates the grow site is an approved land use; and

- Grower meets any canopy limits designated by OLCC. For the purpose of calculating the canopy limit the opt-in medical marijuana plants will be included as part of the overall canopy.
- The Grower may “opt-out” at any time by surrendering OLCC license
 - Grower must stop any production of recreational product.

Characteristics of Opt-In Medical Products Sold to OLCC Licensees

- Designated medical opt-in products must be:
 - Designated as a “medical product” at the time the product, in whatever form, leaves the grower.
 - Tracked, labeled and sold at retail as medical opt-in product
 - Tested and packaged in accordance with the medical packaging standards
- Medical opt-in products are sold to valid OMMP cardholders tax free
- Medical opt-in products may not be sold to a recreational consumer

Sales of Recreational Products to OMMP Patients

- If an OLCC retailer stocks medical opt-in products they:
 - May sell to a valid OMMP cardholder a recreational product tax free provided, at the discretion of the retailer, that no comparable medical opt-in product is available