



Oregonians for Better Health, Inc.

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Dear Members of Joint Committee for Implementation of Measure 91,

Thank you for the time, work, and perseverance that all of you have devoted to the development of legislation related to implementation of Measure 91. As we move forward in days, months, and years to come, more time, work, and perseverance will be required to ensure that legislation related to cannabis serves the public good as envisioned.

We make the following observations and recommendations that hopefully can be placed into legislation or rule making with your guidance:

- **Taxation of Adult Use Cannabis** – The imposition of taxes and their specific rates often have unintended consequences. Measure 91 recommended a per ounce tax on cannabis cultivators for adult use production. Instead, it appears that we are settling on a point-of-sale (“POS”) tax for adult use cannabis sales, which makes far more sense. A POS tax avoids a lot of tension that is created between cultivators and dispensaries in the wholesaling process.

The rate of POS taxation (e.g., percentage) should be carefully considered. If the POS tax is relatively high (e.g., greater than 12%), then the “black market “ (unregulated market) will be provided with more financial incentives to flourish. Second, a higher tax will encourage more OMMP registration, which may result in lower tax collections. The latter result may be intended.

The average amount of cannabis products purchased per OMMP registrant per week can be easily determined through input from OMMP dispensary owners. If we assume that the average cannabis user purchases \$70 of cannabis products per week, then we can assume that total purchases approximate \$3,500 per individual per year (\$70 X 50 weeks). At a POS tax rate of 20%, the amount of cannabis taxes paid annually per individual cannabis user would be \$700. Conversely, the cost of an annual OMMP registration is \$250. Therefore, a high tax will encourage OMMP registration. Maybe add here the cost of a OMMP annual registration to show the variance in cost and the potential motivation to avoid POS taxation by getting a OMMP card.

If we continue POS tax modeling analysis and assume that there is a base of 600,000 Oregon residents and visitors who on average purchase cannabis, the projected annual taxes will be \$420,000,000. For many reasons, including incentives to reduce unregulated production and sales, we may wish to consider a much lower POS tax rate than the proposed 20%.

The \$35 tax per ounce of cannabis flower written into Measure 91 may be inappropriate on many levels. There are many products other than cannabis flower being sold in dispensaries. We have very little idea as to future cannabis flower pricing. We may see the retail price of cannabis flower fall to \$100 or less per ounce, which makes a tax of \$35 per ounce equate to 35% or more. There is limited financial logic to “stick” with the \$35 per ounce tax rate or to work on related equivocation formulas for POS tax rates. Lastly, comparing Oregon POS tax rates to those imposed in other states should not be the ultimate guide. We should set tax rates to achieve specific public policy objectives for Oregon.

Clearly we need to support a vigorous educational and public policy campaign to discourage cannabis use by minors and the medical concerns related to excessive use. If such a campaign costs \$X million per year to support, then we need to set POS tax rates high enough to support such a campaign in addition to regulatory management. The societal and related health care costs of minors using cannabis, as well as excessive use, are far greater than many of us may fully comprehend at this time.

- **Delivery** – It is unclear whether or not the proposed legislation explicitly permits the delivery of purchased cannabis products for both medical and adult use. There are many legal and public policy considerations that must be addressed to support a delivery option. Please continue delivery discussion and policy development, given the fact that many communities may not have local access to retail or OMMP dispensaries but the resident patients in these communities will need and deserve timely and efficient access to medicinal cannabis.
- **Cultivation Limits** – In serving on the RAC sub-committee for cultivation (grow), we are discussing canopy, acreage, etc. production limits as well as many other important topics. It might be helpful for the Joint Committee to provide some policy guidance to our cultivation sub-committee and the RAC overall in regard to production limits. The sub-committee is well represented by indoor, outdoor, and nursery cultivators. Our next sub-committee meeting is July 8, 2015, at which we will be discussing production limits, as well as pesticides.

In regard to production limits, our sense is that very few of us in the cannabis community native to Oregon regard large indoor, “sea of green” cultivation operations to be beneficial from a variety of economic, environmental, and other

perspectives. That being said, limiting the size of cannabis cultivation operations must be carefully considered. A 10,000 sq. ft. indoor canopy or an outdoor acreage limit may not be appropriate for a large vertically integrated cannabis company(s) with retail and/or OMMP facilities that serve many customers and medical patients.

One of the more interesting considerations is medical use. If a specific patient with epilepsy, cancer, MS, ALS, etc. requires 1 to 3 grams of concentrate oil per day for treatment, the source flower requirement may be 1/3 to 1 lb. of flower per month. This calculation is achieved by assuming a 20% concentrate oil yield from 1 lb. (450 grams) of flower. If 1 lb. of flowers yields 90 grams of concentrate oil (450 grams X 20%), then a patient requiring 3 grams of concentrate oil per day (e.g., epilepsy patient) would consume approximately 1 lb. of flower per month.

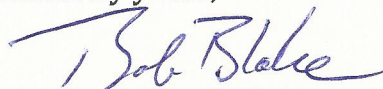
The result is that if a dispensary has 500 patients with confirmed diseases and/or medical conditions requiring a high daily dose of concentrate oil equal to 1 to 3 grams, the annual production requirements would range from 2,000 to 6,000 lbs. per year for these 500 patients. As medical cannabis research continues, we will learn more about daily dosing by specific cultivars used to treat specific diseases and medical conditions.

Plants high in CBD and other non-psychoactive cannabinoids also tend to produce less lbs. per harvested plant. The cultivation of high CBD cultivars would necessitate more canopy space or acreage than other cultivars to gain similar production levels as measured in lbs. produced.

Therefore, it is recommended that production limits be flexible and correlated to true medical need of patients being served. If we build flexibility into permitted production limits based on facts and data, then cultivators can ramp up production as documented their demand increases.

Again, we thank all of you, your staff, and individuals working at the legislature on Measure 91 legislation. It has been very much an enlightening experience through which we all have learned and have made new relationships.

Sincerely yours,

A handwritten signature in blue ink that reads "Robert H. Blake, III". The signature is written in a cursive style with a large, sweeping initial "R".

Robert H. Blake, III

cc. Marshall Coba