



June 18th, 2015

To: Joint Committee on Implementing Measure 91

Re: HB 844 -35, -36, -37, -38 amendments
HB 2040, -3 amendments
HB 2041 -2, -3, -4, -6 amendments

The Oregon Retailers of Cannabis Association is a nonprofit trade association of retail cannabis businesses located all across the state of Oregon. We are committed to helping to craft sensible retail cannabis policy that prioritizes public safety while allowing this new industry to thrive.

The follow is our testimony on the package of legislation being discussed in the 6/18 public hearing:

SB 844 -35 Amendments: We strongly support the -35 amendments to SB 844, outlining a framework where existing medical marijuana dispensaries licensed by the Oregon Health Authority can sell limited marijuana retail products to all adults 21 and over in the period prior to the OLCC opening licensed recreational marijuana retail outlets. Creating this interim period for cannabis sales means that we won't be forcing consumers into alternative markets between legalization going into effect and OLCC's timeline for retail sales coming online some time in the later half of 2016.

We also agree with the proposal to mimic the tax structure that is ultimately passed in the companion bill, HB 2041. This should also give retailers the opportunity to see how the proposed rate of taxation effects buying patterns during the 'soft start', and whether adjusting these rates in the future seems prudent.

While other proposals suggesting an effective date for such recreational sales beginning on or around October 1st, 2015, we feel that our existing medical marijuana dispensaries are already prepared to begin servicing the broader retail marketplace. Further, allowing this measure to go into effect immediately upon passage should minimize the amount of consumers utilizing the black market to obtain marijuana after criminal penalties for possession and consumption are removed following July 1st, 2015.

SB 844 -36 Amendments: Our organization strongly supports the establishment of a Task Force on Researching the Medical and Public Health Properties of Cannabis. Preliminary research has shown conclusively that cannabis has numerous medicinal qualities than can improve the quality of life for many people suffering from serious conditions, and further research is needed to ascertain it's full capabilities.

SB 844 -37 Amendments: Similar to the -35 amendments, we strongly support the framework established for interim recreational sales under the -37 amendments as well. This framework, while broader than the -35 amendments, could easily have a basic tax structure incorporated as soon as the legislature considers it prudent to do so.

SB 844 -38 Amendments: We strongly support the -38 amendments to SB 844. As an association of retail cannabis businesses, we feel that it is important to remove the stigma of criminal offenses that are no longer a significant violation of state law. Several thousands of individuals in our state have suffered and continue to suffer from negative consequences of past convictions for minor marijuana offenses.



Expunctions like those outlined in the -38 amendments bring our state one step closer to correcting the injustices of prohibition and restoring the rights and livelihoods of thousands of Oregonians.

HB 2040 -3 Amendments: Our members strongly support the framework for interim adult-use sales through existing OHA dispensaries. Particularly of interest in this amendment is the operative date, which specifies that adult-use sales could begin on the 91st day following the passage of the bill – or likely sometime in October of 2015. While currently licensed OHA dispensaries would be capable of serving the recreational market as soon as they were directed to do so by the legislature, giving them this 91 day notice would allow retailers to adequately prepare for this shift would make for a smoother ‘soft-start’.

One area of concern, however, in this version of the interim-sales proposal is the tax rate applied to these limited retail marijuana sales of 25%. While we strongly support the concept of shifting the taxation away from the production side and onto the point of sale, we feel that this high of a tax rate will drive many consumers to the black market to procure their supply, especially the 20% of consumers that historically are responsible for consuming approximately 80% of the supply.

Based on feedback from our retailer members, we feel that the tax rate needs to be at our below 15% in order to successfully stay competitive with, and ultimately subvert, the black market. This measure would be the ideal path forward if this rate of taxation were changed to be either a fixed rate between 10-15% (closer to the approximately 12.5% proposed in Measure 91), or at least changed to the same rate that is ultimately decided for recreational sales under the OLCC’s program proposed in HB 2041.

HB 2041 -6 Amendments: We strongly support this framework for the taxation of retail cannabis sales. Strictly from a logistical standpoint, our retail cannabis business members feel that the system would be far easier to participate in if the tax was shifted away from the production end and simply applied at the point of sale as a fixed percentage of the purchase. This smart change will allow our industry to thrive.

We also feel that it is a prudent move to establish separate tiers of taxation for a variety of different products – while beginning to implement said tax structure utilizing the same rate of taxation for all products. While down the road we may find that the state has a compelling interest in raising or lowering the rate of taxation on a particular class of products. However, at this time, we simply do not have the market data available to determine to what extent the state would have a compelling interest in encouraging or discouraging one class of product over another. Additionally, as retailers become familiar with the new point of sale tax for marijuana sales during the interim period proposed in SB 844 (-35 and -37) and HB 2041 (-3), we can begin to see precisely how these rates of taxation impact consumer activity.

Despite our support for this new tax structure, we strongly feel that the proposed tax rate of 17% for all cannabis products is excessively high and will result in fortifying black market providers of illegal cannabis. When combined with the 3% local tax that many localities will no doubt adopt, this 20% sales tax is an onerous level of state income not seen on similar products in the state like beer and wine. We feel that the rate of taxation should be consistent with what the voters enacted in Measure 91, which would work out to approximately 12.5%. We share the goal of policymakers to subvert and ultimately distinguish the underground cannabis market. A total tax rate between 10-15% on cannabis sales will absolutely result in more consumers utilizing legal supply lines and will further subvert the black market.