



TO: Measure 91 Joint Committee

I am unable to attend the public hearing for HB4014 on Feb. 2nd because the announcement and agenda for the public hearing was just published on 1/27/16. I therefore am submitting this public testimony.

- 1. I am opposed to removing the 2 year residency requirement in HB4014**
- 2. I request state legislators remove the definition in HB3400 of marijuana as an agricultural farm crop.**

Dear Measure 91 Committee,

It is with increasing frequency and frustration that I read how some of our state legislators are making a mockery of establishing important standards for our rural residential communities relating to the legalization of marijuana.

State lawmakers are behaving as if their parents have left town for a long weekend and have thrown a huge party at the expense of their taxpayers and constituents. Our elected officials should quickly realize this is one of the most serious topics that this State could ever face, since marijuana is still a federally illegal drug and brings with it significant amount of risks to our communities.

It is as if some of our legislators have set a place at the family dinner table and have welcomed, with open arms, the marijuana industry without regard to the rural residents of Oregon.

Senator Ferrioli presenting Senator Burdick with a bong – on the Senate Floor – is hardly representative of the qualities that we look for in our Oregon legislature. These individuals should be held in contempt of the fiduciary responsibility they accepted when they were voted into office. The lack of regard they show to their office, the State Capital in which they serve, and all Oregonians is shameful.



(photo from The Oregonian, article attached)

House Bill 3400

You, our elected officials, in House Bill 3400 (HB3400) decided pot was a crop without putting that decision to voters and without hearing opinions from property owners affected by issues related to large, commercial pot grow operations on our farmlands.

The sponsors of HB3400, Lininger, Beyer, Olson, Burdick, Ferrioli, Kruse, Prozanski, Steiner and Hayward included this verbiage in the Bill:

HB3400, Section 34:

- (1) Notwithstanding any other provision of law, marijuana is:
 - (a) **A crop** for the purposes of “farm use” as defined in ORS 215.203;
 - (b) **A crop** for purposes of a “farm” and “farming practice,” both as defined in ORS 30.930;
 - (c) **A product of farm use** as described in ORS 308A.062; and
 - (d) The **product of an agricultural activity** for purposes of ORS 568.909.

I'll call appreciative attention to Rep. Brian Clem (D-Salem) who was the only one who expressed any concerns, saying he didn't like the characterization that marijuana was just another farm product that should be treated the same as food crops. "It is an illegal drug under federal law," he noted (as reported in The Oregonian – article attached). Unfortunately he went onto voting yes for HB3400's passage.

With the Measure 91 Committee's declaration that marijuana is a crop, it now enjoys the privileges associated with the Right to Farm (RTF) policy adopted by (a more considerate) Oregon legislature in 1973 and, as such, can be grown on Exclusive Farm Use (EFU) parcels. RTF, as the policy states, protects farmland as a natural and economic asset and preserves a maximum amount of large parcels of agricultural lands to assure ***adequate, healthful and nutritious food*** (emphasis mine). RTF doesn't say anything about a federally illegal drug being protected.

A stated reason for Exclusive Farm Use zones is to preserve and maintain agricultural lands and to serve as a **sanctuary** for farm uses. This sanctuary will be destroyed with unrestrained commercial marijuana complexes built on EFU land.

The RTF policy provides incentives and privileges to land owners in EFU areas because the zoning limits alternative land uses. Under RTF, ranchers are protected from lawsuits against noises, smells, dust, and other issues associated with farming. The Right to Farm law protects farming practices that are **generally accepted, reasonable and prudent and are performed in a reasonable manner**. Any rational person would agree that a product requiring 8-foot fences topped with razor-wire, sends its scent for thousands of feet, sells for \$2,500 a pound and is a cash-based business is NOT grown in a reasonable manner.

EFU also provides tax deferral –a reduction of property taxes given to property owners who receive income from products produced from the land. That makes sense when a rancher is growing hay that sells for \$250 a ton. But **should tax deferrals be “awarded” to pot growers** who sell their product for \$2,500 per pound?

You should be aware that **right-to-farm protection is not afforded** if claims are based on an action of a producer that results in any of the following:

- Damage to commercial agricultural products of another grower or neighboring property
- **Death or serious injury**

You better be ready to defend yourselves in the unfortunate but plausible situation where an innocent neighbor to a commercial grow operation is caught in the cross-fire of an armed burglary because ***you will have made it possible.***

Protected RTF practices include farming that complies with applicable law. Maybe Oregon's law allows marijuana production but it is still an illegal Schedule 1 drug at the federal level.

With RTF protections locked up for marijuana, our state will now be overrun by massive industrial marijuana grow operations. Perhaps west of the Cascades having marijuana grown on such a large scale is palatable. But in Deschutes County, where our land was divided before strict regulations were enacted, our EFU land contains residential farms interspersed with hay and pasture fields. Many of the land owners have resided on their property for decades. Understand that your action in HB3400 will have irreversible impact to the enjoyment, value and resale of their land.

You are allowing blight on our beautiful land and voters will hold you accountable.

Residency

Let's go further: the original Measure 91 four-year **residency** requirement included in committee work during the last session was reduced to two years. Now in House Bill 4014 (HB4014), you are intending to **remove any residency requirement.**

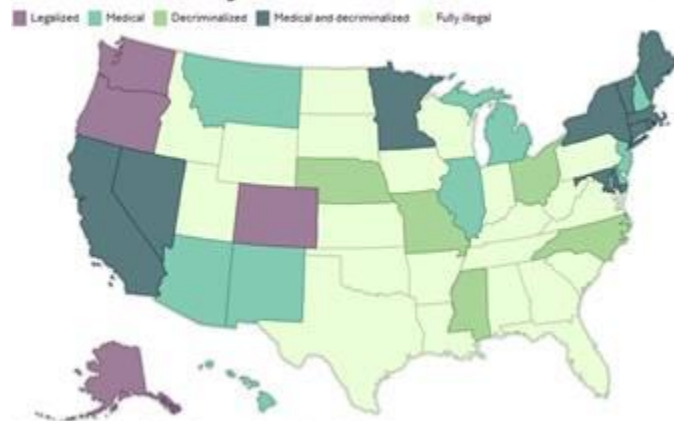
Here's what The Bend Bulletin reported (see attached article): Burdick said she expects a big change in residency requirements for growing recreational marijuana in Oregon. Burdick now says the committee has changed course and believes the requirement **has become a roadblock to investment.** "It's really put a **dampener on investment that people need** since they don't have access to banking," Burdick said.

What other industry is receiving such generous concessions from you? It makes one wonder what your motivation is. Campaign contributions perhaps?

Lawsuits from Neighboring States

I'm sure you each are aware of the lawsuits brought by Oklahoma and Nebraska against Colorado for its marijuana production and distribution system (see attached article). If you look at the US map below of where MJ is legal and where it is not, notice Oregon's neighbor to the east: Idaho – a fully illegal MJ state. Idaho probably won't take too kindly having Oregon-grown pot entering its state.

Status of marijuana laws in the United States



Source: NORML, Drug Policy Alliance, and the Marijuana Policy Project

(map from: <http://www.theverge.com/2014/11/5/7157993/marijuana-legalization-vote-oregon-washington-dc-alaska-florida>)

And please stop kidding yourself and buying into the marijuana industry's claim that legalizing marijuana will stop the black market.

One small example is the retired Eugene fire captain, his wife and their son, a city of Eugene employee, who **have been indicted in an alleged money laundering scheme and interstate marijuana distribution operation**. Kenneth Kern, the former fire chief, is also being charged in **Maryland** with importing 11 pounds to 99 pounds of marijuana, possession with intent to distribute, and possession of marijuana. (article attached)

The black market will only get bigger as more marijuana than can possibly be consumed in the State of Oregon makes its way beyond our borders.

You, our lawmakers, have the opportunity to reverse your *perverse* open-armed attitude toward marijuana grow and process businesses.

Give **local** jurisdictions the latitude to regulate marijuana according to needs, concerns and issues that are *local in nature*.

Again I state:

- 1. I am opposed to removing the 2 year residency requirement in HB4014**
- 2. I request state legislators remove the definition in HB3400 of marijuana as an agricultural farm crop.**

As a Deschutes County rural resident I am greatly concerned with what our state lawmakers have unleashed upon our community. I have made appointments with our legislators in Salem on February 8th and assure you I will be visiting each of your offices to voice these concerns.

I am alarmed and furious. You have underestimated the fighting power of our rural residential communities.

Sincerely,

Liz Lotochinski
Deschutes County
Tumalo, Oregon
www.preserveruraleschutes.org

A bong on the Oregon Senate floor? A lawmaker's unusual gift



Sens. Ginny Burdick (left) and Ted Ferrioli pose with Burdick's new bong, given to her by the Senate on the first day of recreational pot being legal in Oregon.

By [Ian K. Kullgren | The Oregonian/OregonLive](#)

on July 01, 2015 at 12:33 PM, updated July 06, 2015 at 1:43 PM

http://www.oregonlive.com/politics/index.ssf/2015/07/legislatures_pot_committee_cha.html

SALEM — State Sen. [Ginny Burdick](#)'s new bong would be the envy of even the most seasoned stoners.

On the first day of recreational marijuana being legal in Oregon, Senate Minority Leader [Ted Ferrioli](#), R-John Day, presented Burdick with an elaborate navy-and-gold rig — the official colors of the state of Oregon — as a thank-you for her work as co-chair of the Legislature's committee on implementing Measure 91.

The \$400 bong was handcrafted by Woody Nelson, a glass artist based in the Illinois Valley, and paid for by donations from every member of the Senate. It even includes the words "State of Oregon" on the base.

Burdick, D-Portland, however, promised she'd use it only as a single-flower — or "bud" — vase.

-- Ian K. Kullgren

ikullgren@oregonian.com

503-294-4006



Oregon marijuana regulation bill easily clears House and heads for Senate

Jeff Mapes | The Oregonian/OregonLive By Jeff Mapes | The Oregonian/OregonLive

http://www.oregonlive.com/mapes/index.ssf/2015/06/oregon_marijuana_regulation_bi.html

June 24, 2015 at 4:44 PM, updated June 24, 2015 at 8:27 PM

A sweeping bill that sets up the framework for **Oregon's upcoming legal marijuana market** was handily passed by the state House on a 52-4 vote Wednesday.

The measure would put new limits on medical marijuana growers, make it easier for 15 eastern Oregon counties to prohibit retail sales of the drug and reduce penalties for many of the state's remaining marijuana-related crimes.

In addition, **House Bill 3400** lays out new testing and packaging requirements covering marijuana and other cannabis-infused products.

Those are some of a highlights of a 127-page bill that members of a House-Senate marijuana struggled for months to assemble after voters last year passed an initiative to legalize marijuana. Possession becomes legal on July 1 but it could be more than a year until retail sales starts -- unless the Legislature moves forward on a measure allowing medical marijuana dispensaries to temporarily sell small amounts of pot to recreational users.

HB 3400, which now goes to the Senate, attracted little opposition on the House floor.

Rep. Brian Clem, D-Salem, was the only one who expressed any concerns, saying he didn't like the characterization that marijuana was just another farm product that should be treated the same as food crops.

"It is an illegal drug under federal law," he noted, adding that he would "try to keep it away from my 7-year-old."

In the end, though, Clem voted for the bill. The only no votes were cast by Democratic Reps. Brent Barton of Oregon City and Paul Evans of Salem and by Republican Reps. Cedric Hayden of Fall Creek and Julie Parrish of West Linn.

Rep. Ann Lininger, D-Lake Oswego, who co-chaired the marijuana committee, said the intent of the bill was to move marijuana into a "safer, taxed, regulated market and out of the black market."

The new limits on medical marijuana farms are aimed at reducing diversions to the black market.

Meanwhile, supporters of easing penalties said it was time to shift away from meting out jail sentences to drug offenders.

"The so-called war on drugs has devastated communities across this country," said Rep. Lew Frederick, D-Portland, noting that minority and poor people have been more likely to face prosecution despite similar rates of use as others.

Much of the committee debate over the bill revolved around how much power city and county governments should have to bar medical and recreational marijuana sales in their communities.

In a compromise, the bill would allow local boards in counties where at least 55 percent of voters opposed the legalization initiative to ban retail sales. **Fifteen counties reached that threshold**, all in eastern Oregon.

In other counties, any attempt to ban retail sales must be approved by voters.

In addition, the compromise allows localities to establish a tax of up to 3 percent on recreational marijuana sales.

To complicate issues, the marijuana committee is also **considering a separate measure** to allow medical marijuana dispensaries to temporarily sell small amounts of marijuana to recreational users.

This "early sales" program is aimed at giving consumers a legal way to buy marijuana between the time it becomes legal on July 1 and when recreational retail outlets open in late 2016. Those outlets will be licensed by the Oregon Liquor Control Commission.

--Jeff Mapes

jmapes@oregonian.com

503-221-8209

@Jeffmapes

© 2015 OregonLive.com. All rights reserved.

LEGISLATURE

Reality, fantasy coming into view before Oregon Legislative session

Lawmakers have long wish list, short period of time for election-year fixes

By **Taylor W. Anderson / The Bulletin / @taylorwanderson**

Published Jan 5, 2016 at 12:03AM / Updated Jan 5, 2016 at 06:25AM

<http://www.bendbulletin.com/localstate/3878142-151/political-reality-fantasy-coming-into-view-ahead-of>

When it comes to crafting legislation that will govern the lives of Oregon's 4 million residents, there's a big difference between what lawmakers say they'll do and what they can actually accomplish in the five-week firestorm session that starts the first day in February.

Lawmakers say they'll raise the minimum wage, create a carbon "cap-and-invest" system to drastically curb greenhouse gas emissions, resolve a growing affordable housing crisis and fix an upcoming budget crunch caused by rising costs from the state Public Employees Retirement System.

But they're likely to accomplish just a fraction of what they say they will when the 35-day session convenes next month, given that lawmakers are often leery of arming potential challengers with election season ammo or upsetting voters by passing controversial laws in an election year.

"There are different levels of bills in the short session from what I see and what I've been told," Rep. Knute Buehler, R-Bend, said. "Ones that are pure politics bills, then there are legitimate bills to fix emergencies. Then there's some bills to try to broker deals with regard to proposed ballot measures."

There are two separate proposals making their way to the November ballot that would raise the minimum wage statewide to either \$13.50 or \$15 an hour if passed.

In part because of a growing bipartisan view that those levels could impact businesses in rural Oregon, lawmakers are considering passing a bill in February that would create three minimum wages — the highest near Portland, the lowest in rural Oregon and in between in Bend and other midsize metro areas.

Senate Majority Leader Ginny Burdick, D-Portland, says she hopes to see lawmakers compromise on that issue this session.

"I would hope we could get there on the minimum wage," Burdick said. "It would be great to have a more finely tuned measure to replace the ballot measures that are out there. Citizens' initiative is not the best way to adopt complex policy."

Less likely to find compromise is a proposal headed to the ballot brought by Our Oregon, a politically active group funded largely by unions that seeks to raise around \$2.5 billion per

year for the state's budget through a 2.5 percent tax on business sales in Oregon above \$25 million.

Burdick said while some like Sen. Mark Hass, D-Beaverton, have been looking to broker a compromise around the major tax increase measure, her caucus has set a goal of "starting a conversation" around tax reform instead of actually reforming the tax system.

"It would be great to get an alternative to the ballot measure, which is just going to be Armageddon if that thing stays on the ballot," Burdick said. "But at least we want to start the conversation."

Sen. Tim Knopp, R-Bend, has said he'll pitch reforming the state's Public Employees Retirement System in the 35-day session, which is a difficult prospect even during the six-month sessions that take place in odd years without the pressure of upcoming elections.

"I'm an optimist," Knopp, who is running for re-election in 2016, said in November.

Some legislators build coalitions and broad support to pass their bills by bringing together opposing stakeholders to talk about specifics even before writing their bills.

Rep. John Huffman, a Republican from The Dalles, says he's worked with all sides of a proposal to regulate hobby drones that have boomed in popularity and spooked some pilots who have come in close contact with them.

"Number one out of respect and number two just (to) be smart ... I run all my bills past the governor's office and (House Speaker Tina Kotek's) office just to make sure that they're going to be good with it," Huffman said late last year.

Huffman says his strategy worked in 2015: He was chief sponsor or co-chief sponsor of 27 bills, 18 of which were signed into law. "I think that kind of shows that I do my work and my homework ahead of session."

Burdick also said she expects a big change in residency requirements for growing recreational marijuana in Oregon.

The Legislature's pot committee in 2015 passed a bill that requires licensees to be Oregon residents for two years.

Burdick now says the committee has changed course and believes the requirement has become a roadblock to investment.

"It's really put a damper on investment that people need since they don't have access to banking," Burdick said.

— Reporter: 406-589-4347,

tanderson@bendbulletin.com

Oklahoma, Nebraska Attorneys General Compare Colorado To 'Drug Cartel' Over Marijuana

By Chris Casteel The Oklahoman

January 7, 2016 - 10:18am

WASHINGTON — Oklahoma and Nebraska compared Colorado to a drug cartel on Wednesday and again urged the Supreme Court to let them sue their neighbor over its marijuana production and distribution system.

In sharply written arguments, the two states said Colorado “has created a massive criminal enterprise whose sole purpose is to authorize and facilitate the manufacture, distribution, sale and use of marijuana.”

“The State of Colorado authorizes, oversees, protects and profits from a sprawling \$100 million per-month marijuana growing, processing and retailing organization that exported thousands of pounds of marijuana to some 36 States in 2014,” the states’ new brief says.

“If this entity were based south of our border, the federal government would prosecute it as a drug cartel.”

Oklahoma and Nebraska also blasted the Obama administration for arguing that the Supreme Court should not allow the states to sue Colorado.

Supreme Court justices decide what suits are permitted among states. They hear the ones allowed to move forward and render rulings in them. The court may decide in the next few weeks whether to hear the marijuana case.

Oklahoma and Nebraska sought permission more than a year ago to sue Colorado, claiming the state’s licensing for marijuana production and distribution increased the amount of pot in their own states.

Colorado approved Amendment 64 in 2012, which legalized certain amounts of personal cultivation and consumption and also established a licensing regime for production and retail stores.

‘Major Exporter’

Oklahoma and Nebraska charged Wednesday that Colorado now calls itself a “major exporter of marijuana” and “knows that a large portion of the demand for its illegal marijuana comes from residents of neighboring states and that as many as half the visitors to Colorado are motivated to visit by marijuana.”

Colorado told the Supreme Court in March that Oklahoma and Nebraska “filed this case in an attempt to reach across their borders and selectively invalidate state laws with which they disagree.”

The Obama administration argued to the justices last month that the complaint filed by Oklahoma and Nebraska is not the kind normally considered by the high court.

“This case does not satisfy the direct injury requirement,” the administration said in its December brief.

“Nebraska and Oklahoma essentially contend that Colorado’s authorization of licensed intrastate marijuana production and distribution increases the likelihood that third parties will commit criminal offenses in Nebraska and Oklahoma by bringing marijuana purchased from licensed entities in Colorado into those states.

“But they do not allege that Colorado had directed or authorized any individual to transport marijuana into their territories in violation of their laws.

“Nor would any such allegation be plausible.”

Oklahoma Attorney General Scott Pruitt and Nebraska Attorney General Doug Peterson — both Republicans — accused the administration of anarchy on Wednesday. In their new filing, they say the federal Controlled Substances Act takes precedence over any state laws legalizing marijuana.

“Because the current administration does not want to take the politically inconvenient position of opposing marijuana legalization, nor is it willing to take the legally untenable position that Amendment 64 can be reconciled with the CSA, the solicitor general instead recommends that this court should refrain from hearing this case,” the two states said in their new brief.

“Thus, the solicitor general is forced to argue that a state that has been harmed as a result of a neighboring state’s unconstitutional actions has no recourse or remedy for those harms.”

[The Oklahoman](#). Distributed by Tribune Content Agency.

Copyright ©[GateHouse Media, Inc.](#) 2016. All rights reserved. • [Privacy Policy](#)

Former Eugene fire captain, public works employee indicted on marijuana and money laundering charges

BY CHELSEA GORROW

The Register-Guard

JAN. 23, 2016

<http://registerguard.com/rg/news/local/33983140-75/former-eugene-fire-captain-public-works-employee-indicted-on-marijuana-and-money-laundering-charges.html.csp#>

A retired Eugene Fire Department captain, his wife and their son, a city of Eugene employee, have been indicted in an alleged money laundering scheme and interstate marijuana distribution operation.

Kenneth Allan Hern, 64; Kathleen Lucille Hern, 65; and Steven Perry Hern, 41, all residents of Trailblazer Court in Lowell, southeast of Eugene, have been charged with unlawful delivery of marijuana for “consideration” and laundering a monetary instrument, according to Lane County Circuit Court records.

Each had entered “not guilty” pleas after an indictment in late November. Each is expected to return to court for a pretrial conference hearing Feb. 24.

Little is known about the details of the case. Kenneth Hern, who served as a Lowell city councilor after he retired from the Eugene Fire Department in 2003, also is facing charges in Maryland.

The Maryland charges include importing 11 pounds to 99 pounds of marijuana, possession with intent to distribute, and possession of marijuana. A jury trial is scheduled in that case for May 24.

Eugene-Springfield Deputy Fire Chief Randy DeWitt said Kenneth Hern began his career with the department in 1974.

According to Steven Hern’s LinkedIn profile, he has worked for the city of Eugene since July 2002 and is a lead fleet service technician in the Public Works Department.

Public works spokesman Brian Richardson said Hern is on administrative leave. Richardson declined further comment because the matter is a personnel issue.