

AOC

Association of
Oregon Counties

Marijuana Law Symposium



WILLAMETTE
UNIVERSITY

LAW

Friday, February 2, 2018

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Outline

Overview of:

- **1. History of marijuana regulation in Oregon**
- **2. Oregon medical marijuana laws**
- **3. Oregon recreational marijuana laws**
- **4. Local control of marijuana businesses under Oregon law**
- **5. Oregon administrative rules**
- **6. Some ongoing challenges**
- **7. New and revised Oregon marijuana offenses**

But First



Disclaimer

- **This is only a brief overview**
- **This is not legal advice**
- **I'm not your lawyer**
- **I don't represent you**
- **You are not entitled to rely upon anything in this presentation**

AOC Position

- **Neutral on legalization of marijuana**
- **Promote and defend**
 - **Local opt in or out of marijuana businesses**
 - **Local reasonable regulation of time, place, and manner of marijuana businesses**
 - **Local tax options**



AOC Marijuana Publications

<http://oregoncounties.org/news/publications/marijuana/>

Marijuana



This page contains AOC publications relating to regulation and taxation of marijuana in Oregon.

In 1973, Oregon became the first state in the Nation to decriminalize certain user amounts of marijuana (1973 Oregon House Bill 2936). In 1998, Oregon became the second state in the Nation to legalize medical marijuana (**1998 Oregon Ballot Measure 67**). In 2014, Oregon became the third state in the Nation to legalize recreational marijuana (**2014 Oregon Ballot Measure 91**).

Marijuana touches on many policy areas in which counties are heavily involved, such as **public health, public safety, land use, governance, and economic development**, to name just a few. AOC and its steering committees are therefore directly involved in marijuana policy in the Oregon legislature. The lead role for AOC is the **AOC Governance Committee** and **AOC Legal Counsel Rob Bovett**.

Publications

Regulation of Marijuana in Oregon (history, laws, rules, local issues)

* **PowerPoint** (PDF) (192 slides) (8mb) (last updated September 26, 2017)

Enacted 2017 Oregon Cannabis Legislation (last updated August 22, 2017)

* **Senate Bill 56** (The Miscellaneous Bill) (2017 Oregon Laws, Chapter 476)

* **Senate Bill 302** (The Marijuana Offense Bill) (2017 Oregon Laws, Chapter 21)

* **Senate Bill 303** (The Minor in Possession Bill) (2017 Oregon Laws, Chapter 20)

* **Senate Bill 1015** (The Hemp Transfer Bill) (2017 Oregon Laws, Chapter 531)

* **Senate Bill 1057** (The Omnibus Bill) (2017 Oregon Laws, Chapter 183)

* **House Bill 2197** (The State-Tribal Tax Bill) (2017 Oregon Laws, Chapter 495)

* **House Bill 2198** (The Medical Bill) (2017 Oregon Laws, Chapter 613)

* **House Bill 3470** Sections 30-37 (in lieu of **Senate Bill 845**) (The Tax Distribution Bill) (2017 Oregon Laws, Chapter 725)

New Oregon Marijuana Offenses (effective April 21, 2017)

* **Handout** (PDF) (2 page handout) (172kb) (last updated April 25, 2017)

* **PowerPoint** (PDF) (34 slides) (1mb) (last updated May 8, 2017)

2016 Oregon Marijuana Laws (selected)

(PDF) (139 pages) (1mb) (last updated April 5, 2016)

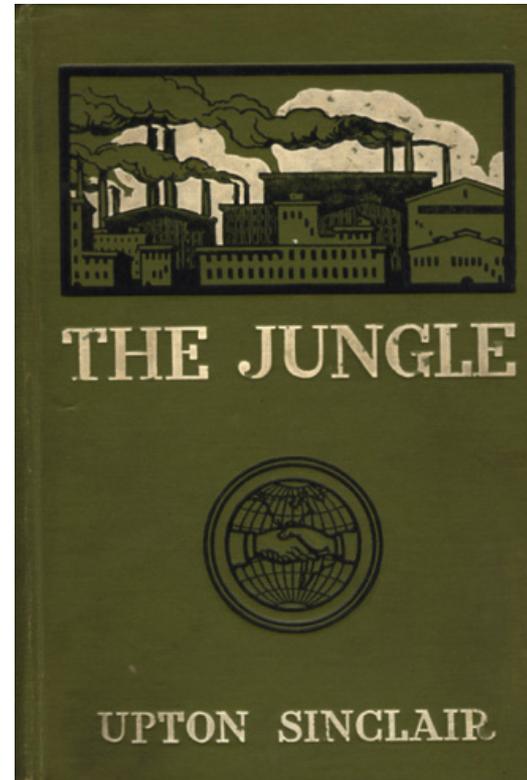
Update for the Joint Marijuana Legalization Committee regarding the results and impacts of November 2016 marijuana elections

* **PowerPoint** (PDF) (18 slides) (1mb) (December 14, 2016)

1. History of marijuana regulation in Oregon

1906

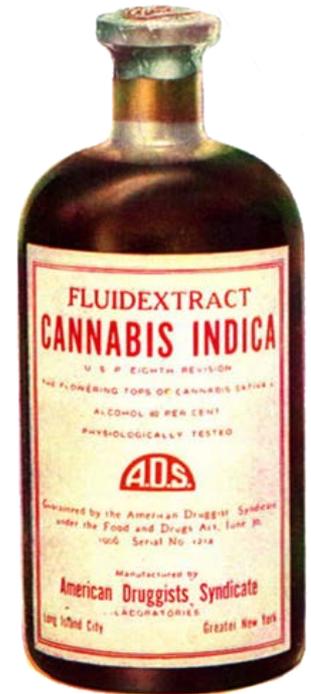
- ***Federal Senate Bill 88:***
Pure Food and Drug Act
 - First significant federal consumer protection law
 - Required labeling of any cannabidiol contained in over-the-counter remedies



Doubleday, Jabber & Company
(1906)

1923

- **Oregon House Bill 42:**
Cannabis indica prohibited, except:
 - ***With prescription:***
Medical preparations with 4 grains or more per ounce
 - ***Without prescription:***
Medical preparations with under 4 grains per ounce
 - *1 grain = 64.79891 mg, or 1/7000 of pound*



1923

- Other distribution or possession of cannabis indica was made a crime
- Why just indica?
 - Concern about hashish
 - At that time, most hash was made with indica

MR. BINNS TRIES HASHEESH.

From the Baltimore Sun, March 6.

A well-dressed young man, who gave the name of Binns, came to the City Hospital. He had yielded to a strange desire to enjoy a dose of hasheesh, a drug that produces curious results. He told the doctor that he had some doubts as to the locality of his face, which to him seemed situated at least two feet from where it really was. Then he was dubious whether he had any legs or was simply walking on his chin. The latter idea seemed to have a firm hold on him, for he stamped his feet on the ground a dozen times. His request to be relieved was pitiful. He feared that some one would steal an arm or leg from him. After medical treatment Binns felt better.

1931

- **Oregon Senate Bill 173:**
Cannabis sativa added to prohibition,
with same exceptions

INDICA

Fat Leaves and Short Bush = INDICA

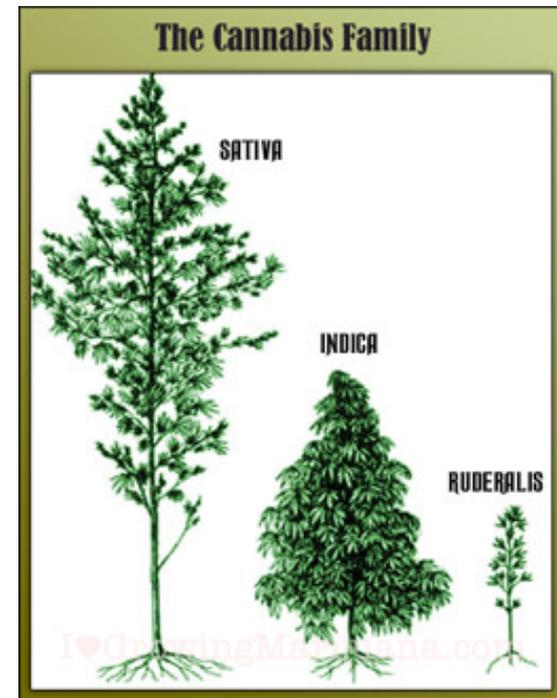
It is a short plant, generally between 3 and 6 feet, and its leaves have short broad fingers. The leaves are generally dark green sometimes tinged with purple. As they near maturity, the leaves may become significantly more purple. It is a strong smelling plant with a "stinky" or "skunky" smell. The smoke of indicas is generally thick and more prone to cause coughing when inhaled. Indicas are the traditional source of hashish. Higher CBD than THC equals heavier, sleepy type of high.



SATIVA

Thin Leaves and Tall Bush = SATIVA

A tall plant, generally between 8 and 12 feet. The leaves have long thin fingers and are light green. The more equatorial varieties have more yellow pigments to protect the plant from intense light. Sativa buds are long and thin and turn red as they mature in a warm environment. In cooler environments the buds may be slightly purple. Sativa plants smell sweet and fruity and the smoke is generally quite mild. Higher THC than CBD equals cerebral, soaring type of high, more energetic.



1935

- **Oregon House Bill 107:
Uniform State Narcotic Drug Act**

- All cannabis illegal, except medicinal preparations that contained no more than half of a grain of extract per ounce



Uniform Law Commission

The National Conference of Commissioners on Uniform State Laws



1937

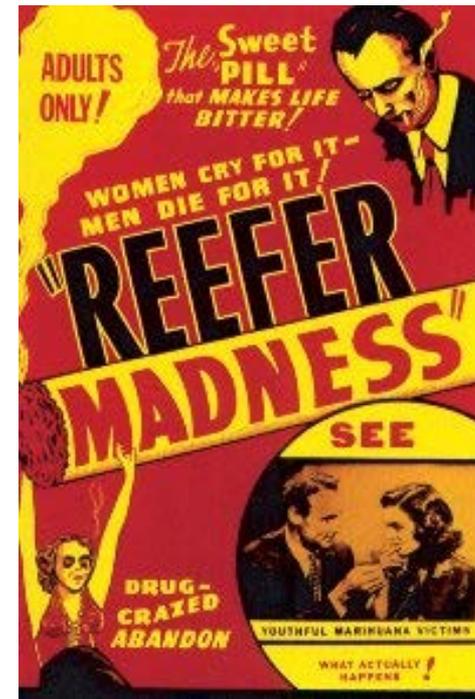
- ***Federal House Bill 6906:***
Marihuana Tax Act

- Effectively criminalized marijuana, restricting possession to persons who paid excise tax for authorized medical and industrial uses



1941

- **Oregon Senate Bill 243:**
Exception for medicinal preparations removed
 - All cannabis illegal



Motion Picture Ventures
(1936, 1938, 1939)

1951

- ***Federal* House Bill 3490:
Boggs Act**
 - **Mandatory minimum sentences for drug crimes, including marijuana:**
 - 1st offense: 2 to 5 years
 - 2nd offense: 5 to 10 years
 - 3rd offense: 10 to 15 years



1956

- ***Federal* House Bill 11619: Narcotics Control Act**
 - Increased mandatory minimum sentences for drug crimes:
 - 1st offense: 2 to 10 years
 - 2nd offense: 5 to 20 years
 - 3rd offense: 10 to 40 years



1970

- ***Federal House Bill 18583: Comprehensive Drug Abuse Prevention and Control Act***
 - Repealed mandatory minimum sentences for drug crimes
 - They weren't working
 - Shifted focus to rehabilitation



“America's public enemy number one in the United States is drug abuse. In order to fight and defeat this enemy, it is necessary to wage a new, all-out offensive.”

- US President Richard Nixon
(June 17, 1971)

1970

- **Title II of the CDAPCA:
Controlled Substances Act**
 - **Schedules**
 - Potential for abuse
 - Accepted medical use
 - **Marijuana placed in
Schedule I**

Schedules of Controlled Substances
<p>Schedule I</p> <ul style="list-style-type: none">• The drug or other substance has a high potential for abuse.• The drug or other substance has no currently accepted medical use in treatment in the United States.• There is a lack of accepted safety for use of the drug or other substance under medical supervision. <p><i>Examples: Heroin, LSD, Marijuana, MDMA (Ecstasy), methaqualone (Quaalude).</i></p>
<p>Schedule II</p> <ul style="list-style-type: none">• The drug or other substance has a high potential for abuse.• The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.• Abuse of the drug or other substances may lead to severe psychological or physical dependence. <p><i>Examples: cocaine, methadone, methamphetamine, methylphenidate (Ritalin), morphine, oxycodone (OxyContin), phencyclidine (PCP).</i></p>
<p>Schedule III</p> <ul style="list-style-type: none">• The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.• The drug or other substance has a currently accepted medical use in treatment in the United States.• Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence. <p><i>Examples: Anabolic steroids, ketamine (Special K), Hydrocodone (Vicodin), synthetic THC (Marinol).</i></p>
<p>Schedule IV</p> <ul style="list-style-type: none">• The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.• The drug or other substance has a currently accepted medical use in treatment in the United States.• Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III. <p><i>Examples: Alprazolam (Xanax), diazepam (Valium).</i></p>
<p>Schedule V</p> <ul style="list-style-type: none">• The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.• The drug or other substance has a currently accepted medical use in treatment in the United States.• Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV. <p><i>Examples: Certain codeine preparations; certain opium preparations.</i></p>

1973

- **Oregon House Bill 2936:**
Oregon became the first state to decriminalize possession of user amounts of marijuana
 - Less than one ounce
= violation



1977

- **Oregon Senate Bill 904:
Uniform Controlled Substances Act**



Uniform Law Commission
The National Conference of Commissioners on Uniform State Laws

- **Oregon modifications, including marijuana**
 - **Marijuana treated the same as it had been**
 - Possession of less than an ounce = violation
 - Other offenses = crimes
 - » Still no mandatory minimums

1984

- **Federal Senate Bill 1792, Title II: Comprehensive Crime Control Act**
 - Directed new Sentencing Commission to establish **mandatory minimum imprisonment** for certain drug trafficking offenses, including marijuana, as part of the new federal sentencing guidelines



SENTENCING TABLE
(in months of imprisonment)

Criminal History Category (Criminal History Points)

Offense Level	I (0 or 1)	II (2 or 3)	III (4, 5, 6)	IV (7, 8, 9)	V (10, 11, 12)	VI (13 or more)
1	0-6	0-6	0-6	0-6	0-6	0-6
2	0-6	0-6	0-6	0-6	0-6	0-6
3	0-6	0-6	0-6	0-6	0-6	0-6
4	0-6	0-6	0-6	2-8	4-10	6-12
5	0-6	0-6	1-7	4-10	6-12	8-15
6	0-6	1-7	2-8	6-12	8-15	12-18
7	0-6	2-8	4-10	8-12	12-18	15-21
8	0-6	4-10	6-12	10-16	15-21	18-24
9	0-6	6-12	8-14	10-16	15-21	21-27
10	6-12	8-14	10-16	15-21	21-27	24-30
11	8-14	10-16	15-21	21-27	24-30	27-33
12	10-16	15-21	21-27	24-30	27-33	30-37
13	12-18	15-21	18-24	24-30	30-37	33-41
14	15-21	18-24	21-27	27-33	33-41	37-46
15	18-24	21-27	24-30	30-37	37-46	41-51
16	21-27	24-30	27-33	33-41	41-51	46-57
17	24-30	27-33	30-37	37-46	46-57	51-63
18	27-33	30-37	33-41	41-51	51-63	57-71
19	30-37	33-41	37-46	46-57	57-71	63-78
20	33-41	37-46	41-51	51-63	63-78	70-87
21	37-46	41-51	46-57	57-71	71-87	77-96
22	41-51	46-57	51-63	63-78	78-96	84-105
23	46-57	51-63	57-71	71-87	87-105	92-115
24	51-63	57-71	63-78	78-96	96-115	100-125
25	57-71	63-78	70-87	84-105	105-125	110-137
26	63-78	70-87	78-96	92-115	115-137	120-150
27	70-87	78-96	87-108	100-125	125-150	130-162
28	78-96	87-108	97-121	110-137	130-162	140-175
29	87-108	97-121	108-135	121-151	140-175	151-188
30	97-121	108-135	121-151	135-168	151-188	168-210
31	108-135	121-151	135-168	151-188	168-210	188-231
32	121-151	135-168	151-188	168-210	188-231	210-262
33	135-168	151-188	168-210	188-231	210-262	235-293
34	151-188	168-210	188-231	210-262	235-293	262-327
35	168-210	188-231	210-262	235-293	262-327	292-365
36	188-231	210-262	235-293	262-327	292-365	324-405
37	210-262	235-293	262-327	292-365	324-405	360-450
38	235-293	262-327	292-365	324-405	360-450	360-450
39	262-327	292-365	324-405	360-450	360-450	360-450
40	292-365	324-405	360-450	360-450	360-450	360-450
41	324-405	360-450	360-450	360-450	360-450	360-450
42	360-450	360-450	360-450	360-450	360-450	360-450
43	life	life	life	life	life	life

November 1, 1983

1986

- ***Federal* House Bill 5484:
Anti-Drug Abuse Act**
 - **Mandatory minimum sentences for certain drug crimes, including marijuana**
 - 5 years:
 - 100 plants or 100 kilograms
 - 10 years
 - 1,000 plants or 1,000 kilograms



1986

- Oregon **Ballot Measure 5** (initiative):
“Legalizes Private Possession and Growing of Marijuana for Personal Use.”
- Results:
 - Yes: 279,479 (26%)
 - No: 781,922 (74%)

1997

- **Oregon House Bill 3643:**

Legislature attempts to recriminalize possession of user amount of marijuana (less than one ounce)

- From a Violation to a C Misdemeanor
- **Referendum:**
 - Opponents of the bill got twice the number of signatures they needed to stop the bill from going into effect, and refer the matter to Oregon voters

1998

- Oregon **Ballot Measure 57** (referendum):
“Makes Possession of Limited Amount of Marijuana Class C Misdemeanor.”
- Results:
 - Yes: 371,967 (33%)
 - No: 736,968 (67%)

1998

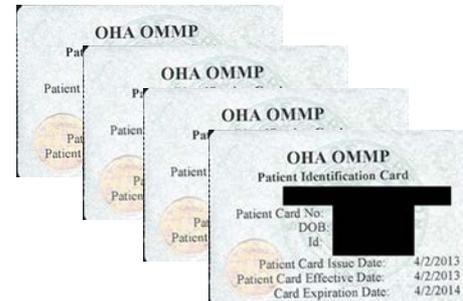
- Oregon **Ballot Measure 67** (initiative):
“Allows Medical Use of Marijuana Within Limits; Establishes Permit System.”
- Results:
 - **Yes: 611,190 (55%)**
 - **No: 508,263 (45%)**

2004

- Oregon **Ballot Measure 33** (initiative):
“Amends Oregon Medical Marijuana Act:
Increases marijuana amount patients may possess; allows sales; creates dispensaries.”
- Results:
 - Yes: 764,015 (42%)
 - No: 1,021,814 (57%)

2005

- Oregon **Senate Bill 1085**:
Increased amount of permissible medical marijuana:
 - Before
 - 3 ounces
 - 3 mature plants
 - 4 seedlings
 - After
 - 24 ounces
 - 6 mature plants
 - 18 seedlings
- Plus enabled “card stacking”
 - *More on this later*



2005

- Oregon [Senate Bill 907](#):
 - Disconnected criminal law related to the primary drugs of abuse in Oregon, including marijuana, from the state Controlled Substances Act schedules

2009

- Oregon **Senate Bill 728**:
 - Directed Board of Pharmacy to down-schedule marijuana
 - Board of Pharmacy moved marijuana to Schedule II in Oregon

2010

- Oregon [Ballot Measure 74](#) (initiative):
“Establishes medical marijuana supply system and assistance and research programs; allows limited selling of marijuana.”
- Results:
 - Yes: 626,749 (44%)
 - No: 790,979 (56%)

2012

- Oregon **Ballot Measure 80** (initiative):
“Allows personal marijuana, hemp cultivation/use without license; commission to regulate commercial marijuana cultivation/sale.”
- Results:
 - Yes: 810,538 (47%)
 - No: 923,071 (53%)

2013

- Oregon [Senate Bill 40](#):
 - Reduced crime levels for possession and manufacture



2013

- Oregon [House Bill 3194](#):
 - Reduced sentencing levels for commercial and substantial quantity marijuana crimes



2013

- Oregon [House Bill 3460](#):
 - Authorized medical marijuana dispensaries



2014

- Oregon **Senate Bill 1531**:
 - Local opt in/out of dispensaries



2014

- Oregon **Ballot Measure 91** (initiative):
“Allows possession, manufacture, sale of marijuana by/to adults, subject to state licensing, regulation, taxation.”
- Results:
 - **Yes: 847,865 (56%)**
 - **No: 663,346 (44%)**

2015

- **Oregon House Bill 3400:**

Omnibus

- 127 pages long
- Retail
- Medical
- Much of what is described in Parts 2, 3, 4, and 5 of this presentation, and much more, comes from 2015 HB 3400
- *More on this later*



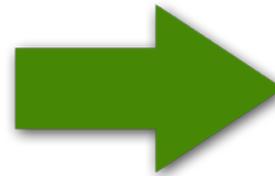
2015

- Oregon **House Bill 2041**:
Retail Taxation
 - Companion to House Bill 3400
 - State point-of-sale retail tax
 - Replaced Measure 91 grower tax



2015

- Oregon Senate Bill 460:
“Early Start”
 - Permitted medical dispensaries to sell certain retail products from October 1, 2015, to December 31, 2016



2015

- **Oregon Senate Bill 844:**
Miscellaneous
 - Established Research Task Force
 - Shortened waiting period for expunction of marijuana convictions for young people
 - Expanded qualifying OMMP conditions
 - OMMP caregiver can be health care organization

2015

- Oregon **Senate Joint Memorial 12:**
 - Encouraging Congress to declassify marijuana from Schedule I in the federal Controlled Substances Act
 - Issues identified:
 - Banking
 - Research

2016

- **Oregon House Bill 4014:**
Base Bill
 - Removed residency requirements for marijuana business owners
 - Clarified OLCC regulatory authority in a number of ways
 - Authorized Governor to enter into State-Tribal compact for tribal marijuana businesses
 - Lots more

2016

- **Oregon Senate Bill 1598:**

Christmas Tree

- Exempted OLCC small canopy grower from Land Use Compatibility Statement (LUCS) requirement
- Expanded “farm crop” status and “Right to Farm” to designated medical grows, subject to local time, place, and manner (TPM) regulation
- Much more

2016

- Oregon [Senate Bill 1511](#):

Expanded Access

- Expanded “Early Start” to edibles, topical, and extracts
- More



2016

- Oregon **Senate Bill 1601**:

Tax Provisions

- Companion to SB 1511
- Exempted medical sales from retail tax at OLCC licensed retail shops



2016

- Oregon [House Bill 4094](#):
Banking
 - Removed state law barriers to banks serving marijuana businesses

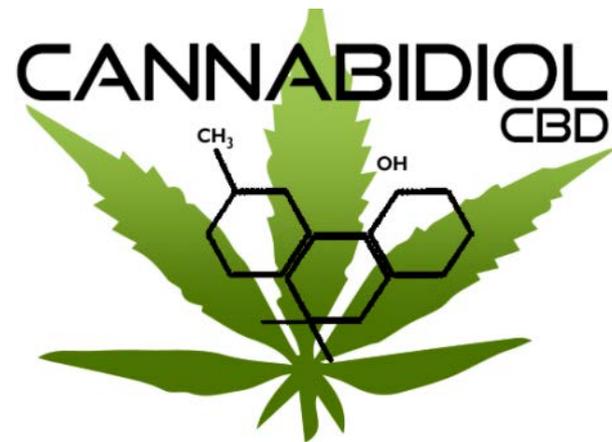


2016

- Oregon [House Bill 4060](#):

Hemp

- Clarified and cleaned up state law related to regulation of industrial hemp
- Hemp products for human consumption to be tested per OHA rules for marijuana products



2017

- **Oregon Senate Bill 1057:**
Omnibus
 - Limits maximum plant counts at designated medical grow sites
 - Requires designated medical grow sites with more than 12 mature plants to be in seed-to-sale tracking (METRC), and be subject to OLCC inspection

2017

- **Oregon House Bill 2198:**

Medical

- Adjusts SB 1057 plant counts designated medical grow sites
- Allows designated medical grow sites with more than 12 plants to sell up to 20 pounds of excess per year to an OLCC licensed processor or wholesaler
- Oregon Cannabis Commission to study OMMP and make recommendations for restructuring

2017

- **Oregon Senate Bill 302:**
Offenses
 - Complete rewrite of the marijuana offense code
 - *More on this in Part 7*

2017

- **Oregon Senate Bill 303:**
MIP Offenses
 - Complete rewrite of the alcohol and marijuana Minor in Possession (MIP) laws
 - *More on this in Part 7*

2017

- **Oregon House Bill 2197:**
State-Tribal Tax Coordination
 - Allows Governor to enter into compact with a Tribe to coordinate marijuana retail tax collection and rebates for marijuana that is tribally produced, processed, or sold

2017

- Oregon [Senate Bill 1015](#):
Hemp Transfers
 - Allows ODA licensed industrial hemp grower to sell certain hemp products to an OLCC licensed processor or wholesaler



2017

- Oregon [Senate Bill 56](#):

Miscellaneous

- Permits OLCC to immediately suspend licensee if OLCC has probable cause that licensee has sold into black market
- OLCC and OHA hotlines for counties and cities to verify status of marijuana businesses



2. Oregon medical marijuana laws

Patients

- A patient with a qualifying condition and a recommendation from their attending physician can get a OMMP card from OHA
 - That person becomes a “cardholder”



Cardholders

- **A cardholder can possess:**
 - **6 mature plants;**
 - **12 immature plants; and**
 - **24 ounces (1½ pounds) of usable marijuana**
- **A cardholder is exempted from the state criminal laws relating to marijuana so long as they are in compliance with OMMA**

Designated Caregivers

- **A cardholder can also have a designated caregiver**
 - **The caregiver gets a card too**
 - **The caregiver can possess the marijuana for the patient, and assist in its use**

Designated Growers

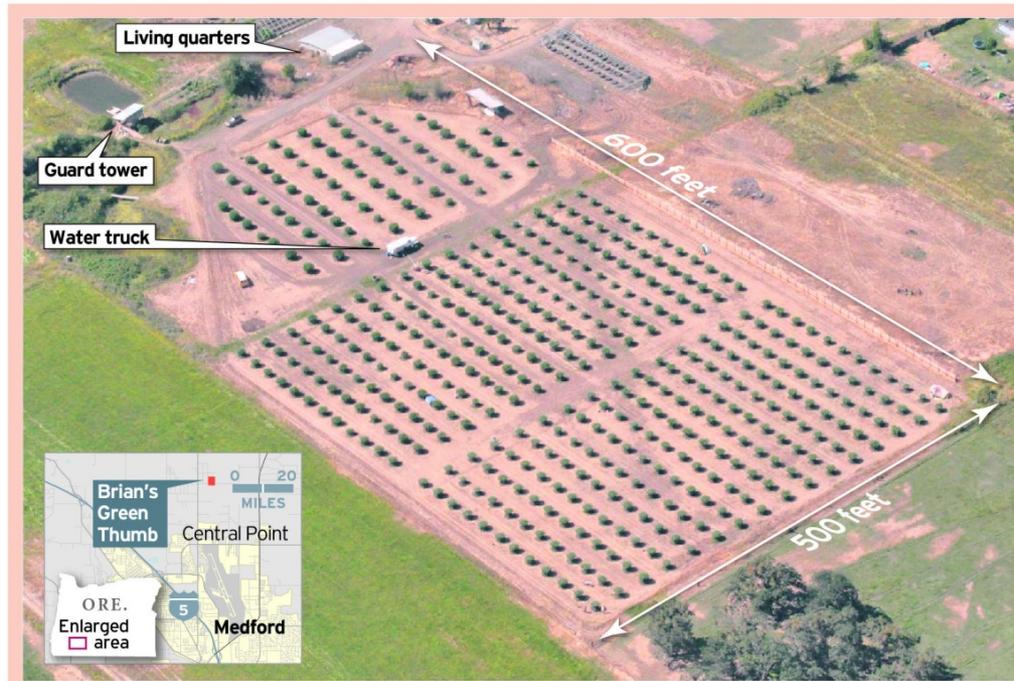
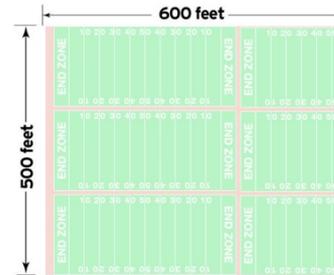
- **A cardholder may grow for themselves, or register a grower**
 - **Only one grow site per patient**
 - **Up to four patients per grower**
 - **Reimbursement of expenses**

“Card Stacking”

- Multiple growers/caregivers at single location

A big harvest at Green Thumb Farm

Federal agents at Brian’s Green Thumb Farm, shown in this surveillance photo, found more than 1,000 pounds of marijuana, two processing machines and a money counter. Prosecutors say the operation – large enough to accommodate 4½ football fields – exemplifies the massive over-production achieved by people exploiting Oregon’s medical marijuana program. Operator Brian Wayne Simmons has been charged with drug conspiracy and is awaiting trial.



Source: U.S. Drug Enforcement Administration.

DAN AGUAYO/THE OREGONIAN

Limits on Card Stacking

- **Plant limits per grow site**
 - **City residential**
 - **12 mature and 24 immature**
 - **Up to 24/48 grandfathered (12/31/14)**
 - **Other than city residential**
 - **24 mature and 48 immature**
 - **Up to 96/192 grandfathered (12/31/14)**

Limits on Card Stacking

- **Usable marijuana limits per grow site**
 - **Up to 6 pounds per indoor plant**
 - **Up to 12 pounds per outdoor plant**

Non-Cardholder Patients

- **Affirmative defense to state criminal MJ charges for person that isn't a cardholder but:**
 - Diagnosed with qualifying condition within 12 months prior to arrest;
 - Advised by attending physician that MJ may help; and
 - Otherwise complies with OMMA limits

Other OMMA Limits

- **No use in public view**
- **No growing in public view**
- **DUI law still applies**



2013 Oregon House Bill 3460

- **2013 medical marijuana dispensaries**
 - **Licensing and regulation by the Oregon Health Authority (OHA)**



Oregon Medical Marijuana Program (OMMP)

Statistics

(as of July 2017)

Numbers

Statewide

- **Patients:** **59,137**
- **Caregivers:** **23,377**
- **Designated Growers:** **30,477**
- **Grow Sites:** **23,175**

Source: Oregon Health Authority (2017)

Patients by Age Range

• < 18	0.5%
• 18 – 29	12.6%
• 30 – 39	19.3%
• 40 – 49	16.8%
• 50 – 59	20.5%
• 60 – 69	22.5%
• > 70	7.9%

Source: Oregon Health Authority (2017)

Qualifying Conditions*

• Severe Pain	56,730	88.8%
• Spasms	15,781	22.6%
• Nausea	7,649	11.3%
• PTSD	5,443	8.8%
• Cancer	3,689	5.6%
• Neurological	1,482	2.8%
• Seizures	1,648	2.6%
• Glaucoma	939	1.5%
• Cachexia	804	1.3%
• HIV/AIDS	494	.8%

* *A person can have more than one qualifying condition.*

Source: Oregon Health Authority (2017)

Physicians

- **27 physicians issue recommendations for 74% of OMMA cardholders**
 - Each with 450 patients or more
- **1,670 physicians issue recommendations for 26% of OMMA cardholders**

Source: Oregon Health Authority (2017)

Dispensaries and Processors

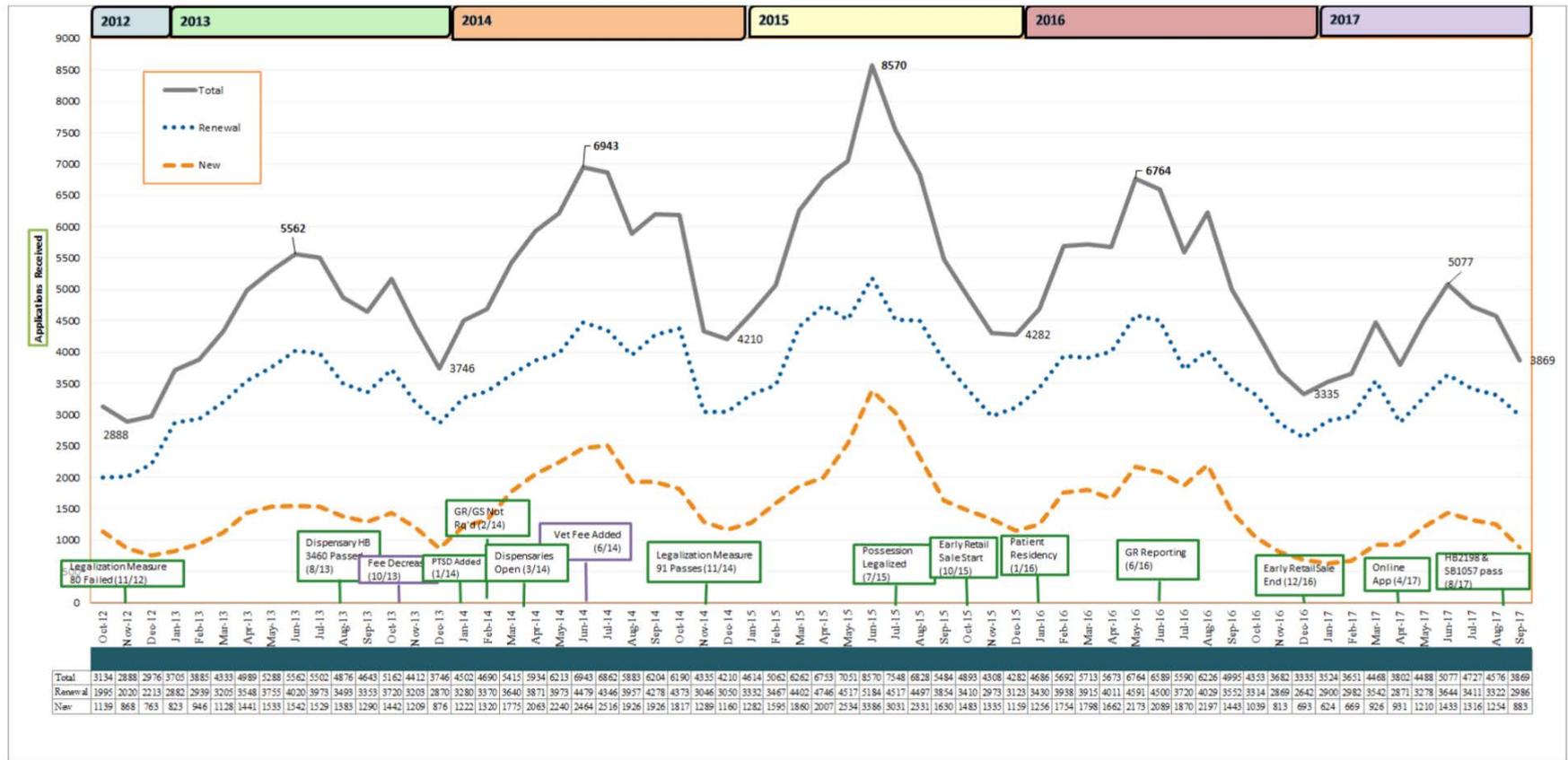
Statewide:

- **21 Dispensaries**
- **12 Processing Site**

Source: Oregon Health Authority (2017)

Trends: OMMP Cardholders

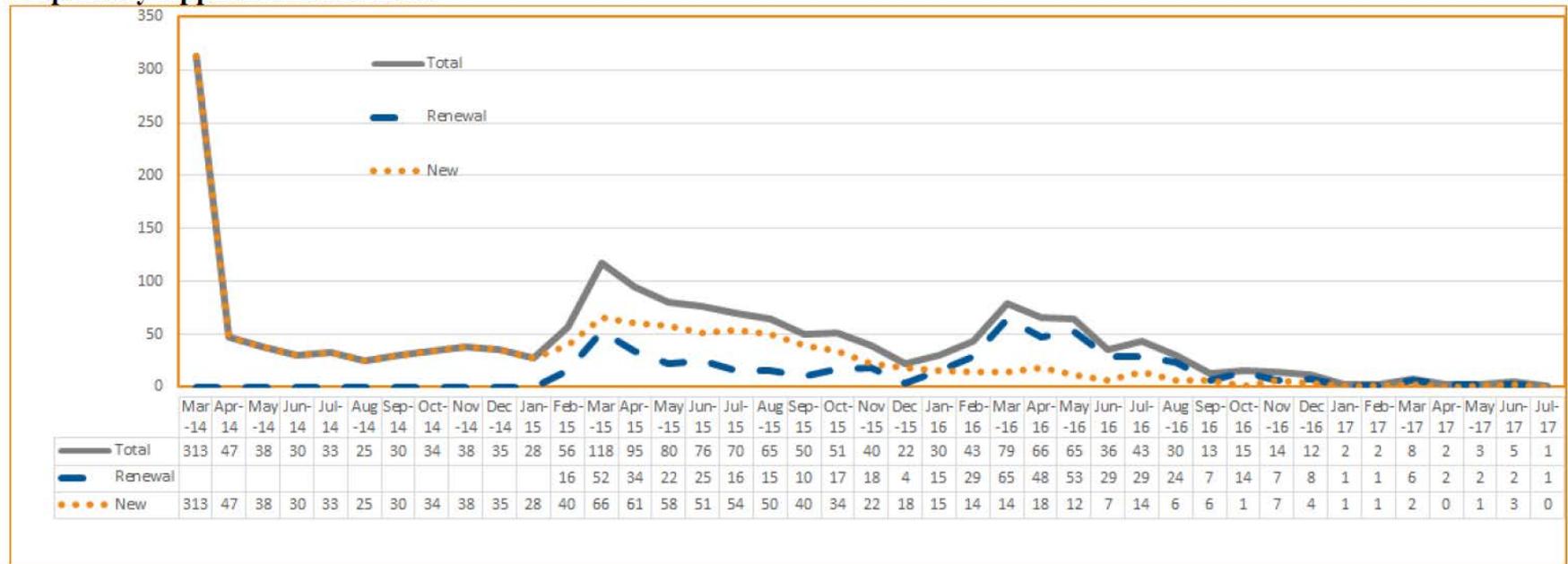
Card Applications Received by Year



Source: Oregon Health Authority (2017)

Trends: OMMP Dispensaries

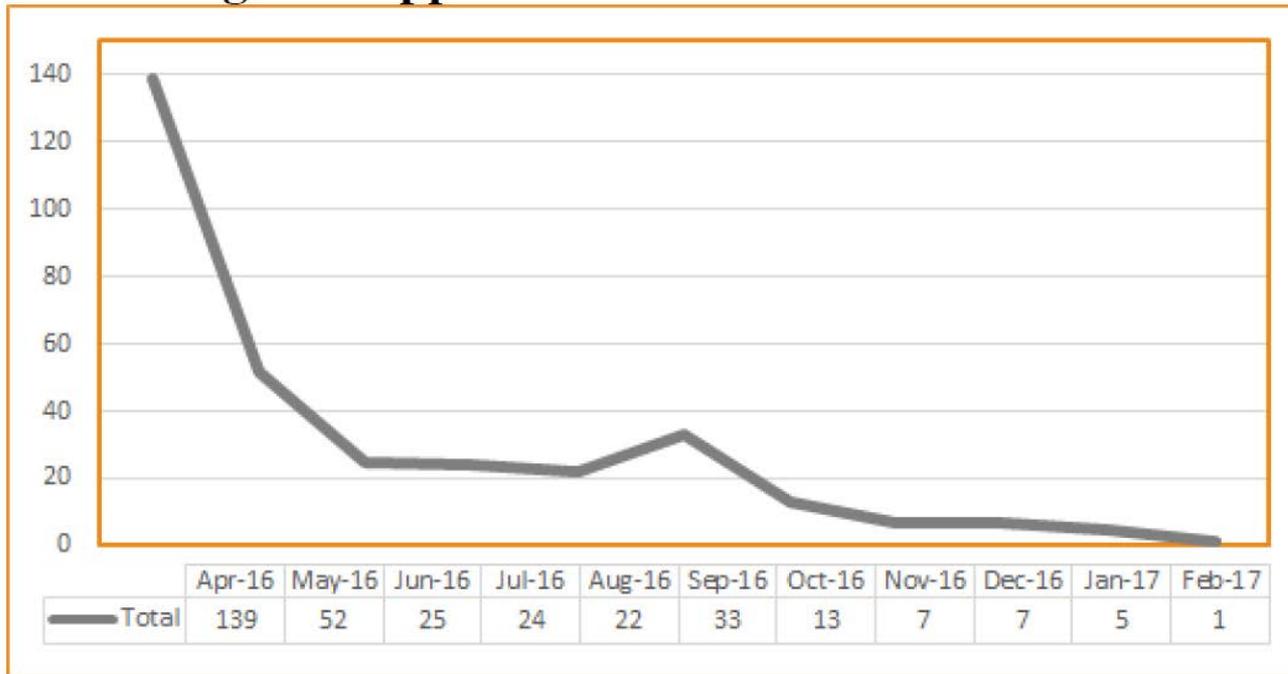
Dispensary Applications Received



Source: Oregon Health Authority (2017)

Trends: OMMP Processors

Processing Site Applications Received



Source: Oregon Health Authority (2017)

3. Oregon recreational marijuana laws

November 2014

Yes = 847,865 (56%)

No = 663,346 (44%)

Proposed by initiative petition to be voted on at the General Election, November 4, 2014.

Ballot Title

91

Allows possession, manufacture, sale of marijuana by/to adults, subject to state licensing, regulation, taxation

Estimate of Financial Impact	102
Text of Measure	102
Explanatory Statement	116
Arguments in Favor	117
Arguments in Opposition	125

Result of "Yes" Vote

"Yes" vote allows possession, authorizes in-state manufacture, processing, sale of marijuana by/to adults; licensing, regulation, taxation by state; retains current medical marijuana laws.

Result of "No" Vote:

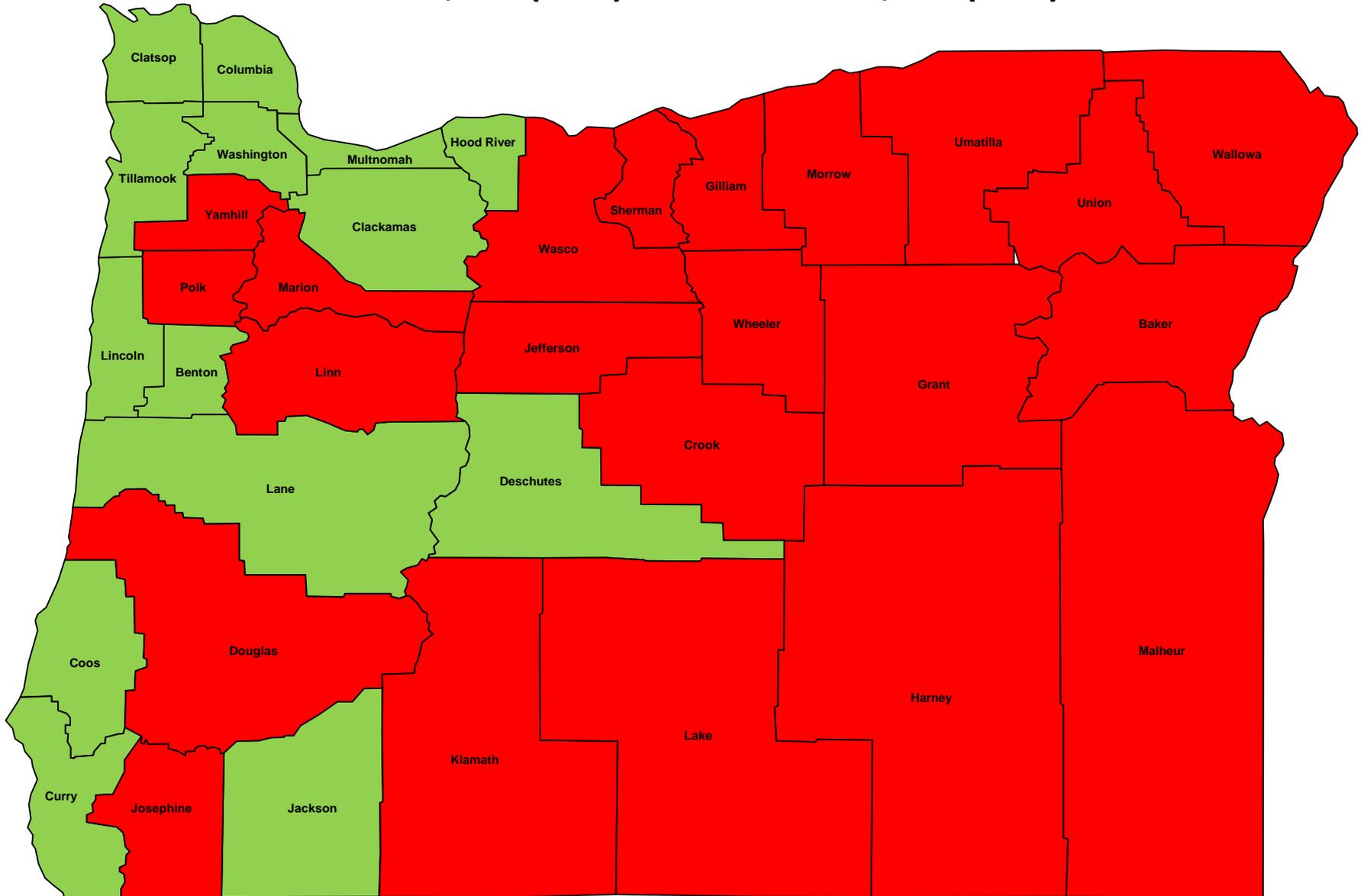
"No" vote retains laws classifying cannabis as a controlled substance; prohibiting most sale, possession, manufacture of cannabis; permitting production, possession of cannabis for medical use.

Summary

Currently, cultivation, possession, delivery, sale of marijuana are unlawful, excepting regulated production, possession, use of medical marijuana. Measure allows production, processing, delivery, possession, sale of marijuana to adults, licensed, regulated by Oregon Liquor Control Commission (OLCC). Marijuana producer, processor, wholesaler may deliver "marijuana items" (defined) only to/on licensed retail premises. OLCC collects tax imposed on marijuana producer at different rates for marijuana flowers, leaves, immature plant. "Homegrown marijuana" (defined) not regulated, taxed. Tax revenues, fees fund OLCC suspense account, Oregon Marijuana Account distributed: 40% to Common School Fund; 20% for mental health/alcohol/drug services; 15% for state police; 20% for local law enforcement; 5% to Oregon Health Authority. "Marijuana paraphernalia" (defined) excluded from "drug paraphernalia" laws. Other provisions.

Measure 91 Election Results

■ Yes = 847,865 (56%) ■ No = 663,346 (44%)



Measure 91 Election Results

• Baker	59.47%	No	• Lake	61.86%	No
• Benton	60.49%	Yes	• Lane	60.65%	Yes
• Clackamas	52.12%	Yes	• Lincoln	61.98%	Yes
• Clatsop	56.47%	Yes	• Linn	52.74%	No
• Columbia	53.43%	Yes	• Malheur	68.72%	No
• Coos	53.55%	Yes	• Marion	51.56%	No
• Crook	58.85%	No	• Morrow	65.98%	No
• Curry	57.08%	Yes	• Multnomah	71.38%	Yes
• Deschutes	51.86%	Yes	• Polk	52.25%	No
• Douglas	54.51%	No	• Sherman	61.45%	No
• Gilliam	59.12%	No	• Tillamook	55.43%	Yes
• Grant	64.80%	No	• Umatilla	62.80%	No
• Harney	65.72%	No	• Union	59.04%	No
• Hood River	57.64%	Yes	• Wallowa	61.16%	No
• Jackson	53.37%	Yes	• Wasco	51.02%	No
• Jefferson	56.28%	No	• Washington	55.40%	Yes
• Josephine	50.0003%*	No	• Wheeler	65.53%	No
• Klamath	56.12%	No	• Yamhill	50.008%**	No

Source: Oregon Secretary of State, Elections Division

* Difference of 2 votes ** Difference of 60 votes

Two Primary Components

- **A. Personal Allowance**
- **B. Retail Regulation and Taxation**

Possession

- **A. Personal allowance (over 21)**
 - **Per household**
 - **8 ounces dried flowers/leaves**
 - **4 plants**
 - **16 ounces homemade solids**
 - **72 ounces homemade liquids**
 - **16 ounces homemade concentrates**
 - **Outside household**
 - **1 ounce**

Sharing Homemade Products

- **A. Personal allowance (over 21)**
 - **Share with another (over 21) for no consideration**
 - **1 ounce homegrown dried flowers/leaves**
 - **16 ounces homemade solids**
 - **72 ounces homemade liquids**
 - **16 ounces homemade concentrates**

Other Limits

- **No consumption in public**
- **No visibility from public place**
- **DUI law still applies**



Regulation of Marijuana Businesses

- **B. Retail regulation and taxation**
 - **Business licensing and regulation**



Taxation

- **B. Retail regulation and taxation**
 - **Taxation of retail sales**
 - **25 percent**
 - **“Early Start” sales**
 - **17 percent**
 - **OLCC Retail shops**
 - **Plus 3 percent local option**
 - **Medical is exempt**



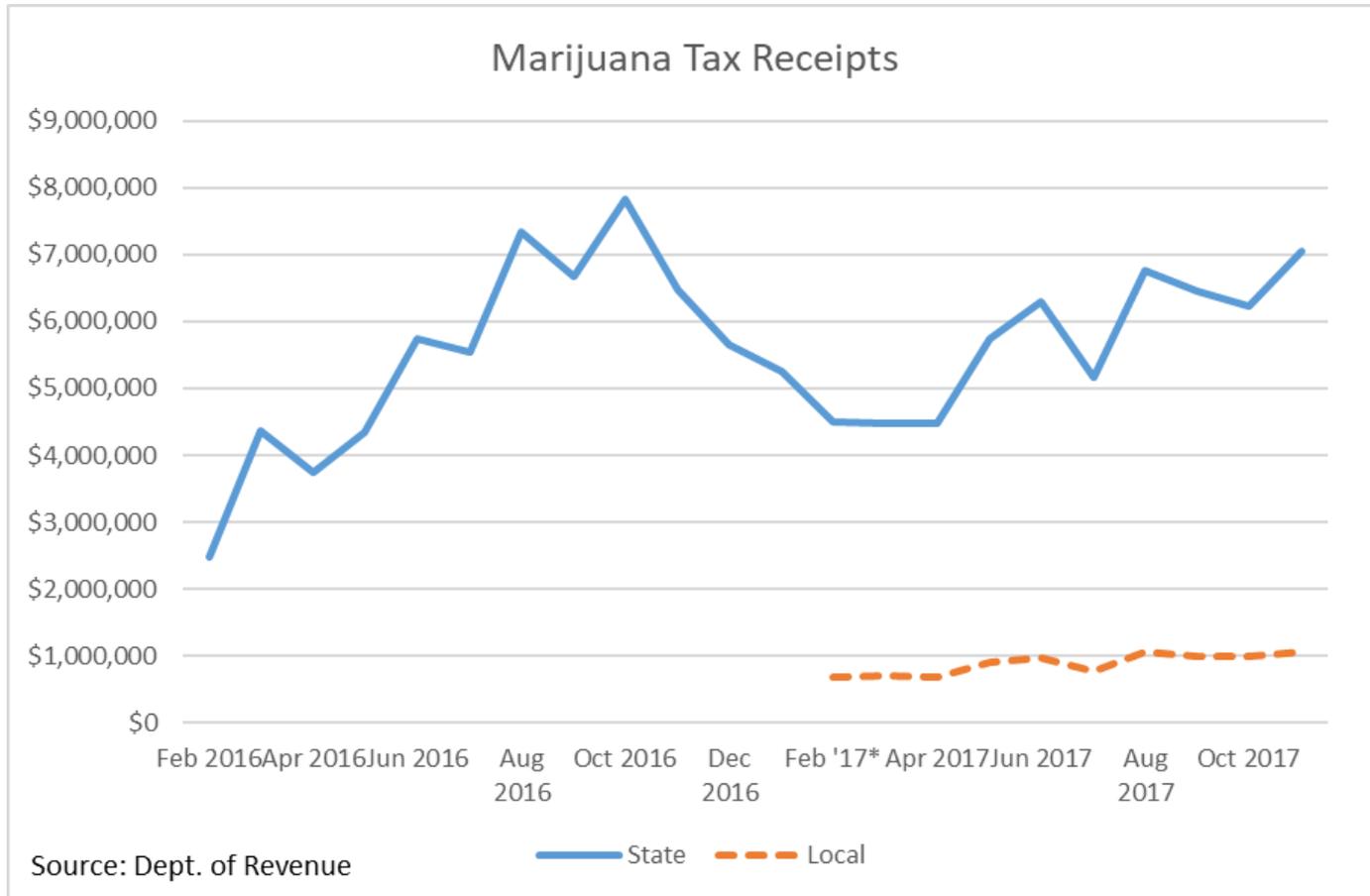
Taxation

- **B. Retail regulation and taxation**
 - **Taxation of retail sales**
 - **How much?**
 - **\$70,263,897** for FY 2016-2017
(July 1, 2016 to June 30, 2017)



Source: Oregon Department of Revenue (2017)

Taxation



Source: Oregon Department of Revenue (2017)

Distribution of Net Revenue

- **40 percent to schools**
- **25 percent for substance abuse treatment and prevention services**
- **15 percent to the Oregon State Police**
- **10 percent to counties, and 10 percent to cities**
 - Collected before July 1, 2017
 - Distributed based on population
 - Collected after July 1, 2017:
 - Distributed based on sub-formula
 - Opt in counties and cities only

Miscellaneous

- **Measure 91 did not impact:**
 - **The rights of employers**
 - *Emerald Steel v BOLI*
 - **The rights of landlords**
 - **The Oregon Medical Marijuana Act**
 - *But not really*

OLCC Marijuana Business License

Statistics

(as of September 2017)

Numbers

Statewide applicants

Source: Oregon Liquor Control Commission (2018)

Numbers

- Marijuana Worker Permit applications:

40,382



A sample Oregon Marijuana Worker Permit card from the Oregon Liquor Control Commission (OLCC). The card is purple and features the OLCC logo in the top left corner. The text on the card includes: "OREGON LIQUOR CONTROL COMMISSION MARIJUANA WORKER PERMIT", "Sign Here" (with a line for a signature), "Expires" (with the date "09/08/2021"), "Colonel Mustard" (with address "123 Fake St, Portland, OR 97123"), "09/01/1950 Birthdate", and "51F6G8 Permit Number". A large "SAMPLE" watermark is diagonally across the center of the card.

Sign Here	Expires
Colonel Mustard 123 Fake St Portland, OR 97123	09/08/2021
09/01/1950 Birthdate	51F6G8 Permit Number

Sources: Oregon Liquor Control Commission (2018)

4. Local control of marijuana businesses under Oregon law

Three Local Issues

- **a. Local opt in/out**
- **b. Local regulations**
- **c. Local taxation**

a. Local Opt In/Out

- **Subject categories of marijuana businesses**
 - OLCC licensed
 - Producers
 - Processors
 - Wholesalers
 - Retailers
 - OHA registered
 - Processors
 - Dispensaries



a. Local Opt In/Out

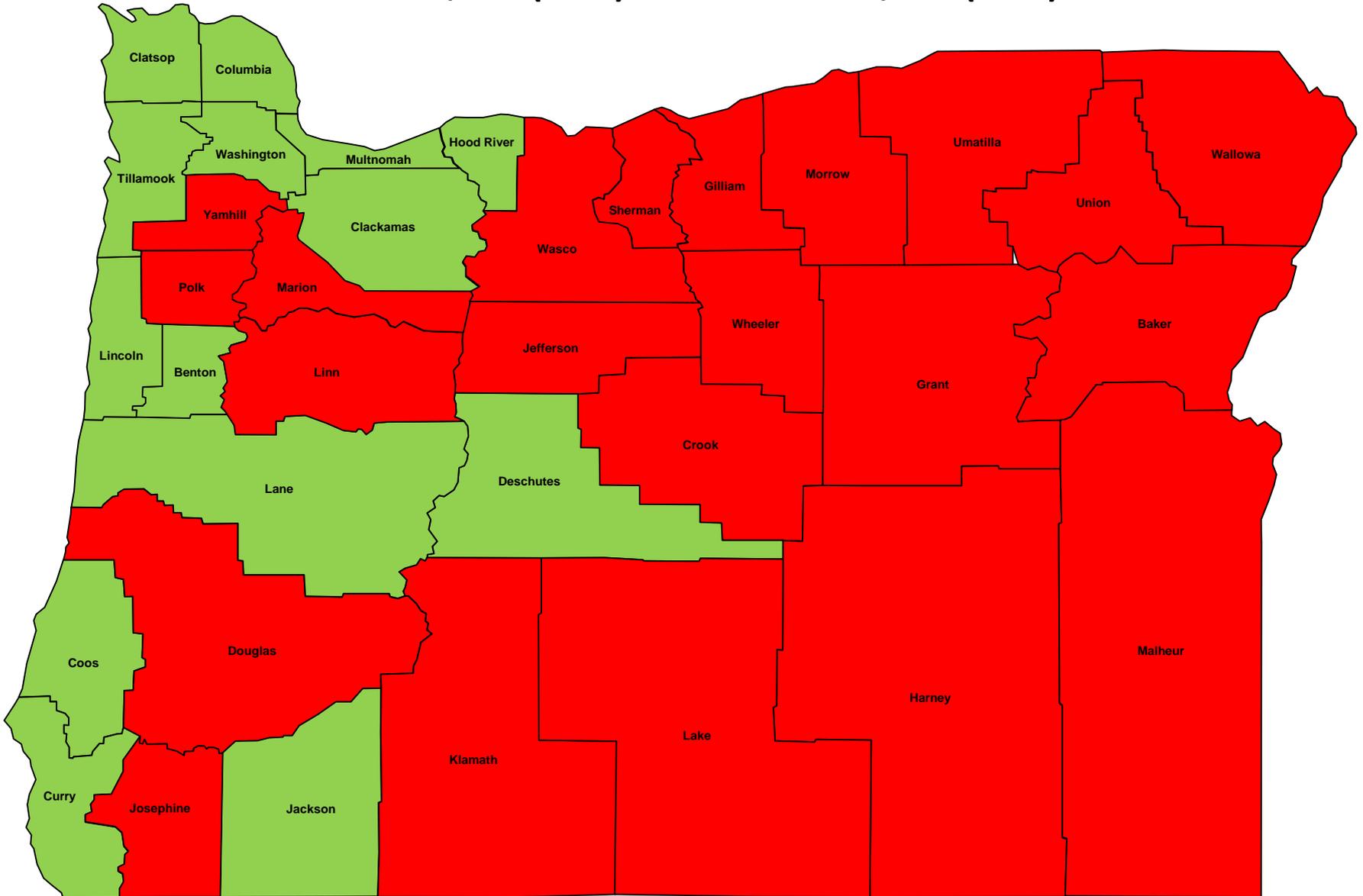
- **Two pathways in state statute**
 - **1. Without local election**
 - Adopting opt out ordinance
 - Only certain qualifying counties and cities
 - Must have acted by late 2015
 - Repealing opt out ordinance
 - Any county or city
 - Any time

a. Local Opt In/Out

- **Two pathways in state statute**
 - **2. With local election**
 - Adopting ordinance
 - Subsequent election required - next general election (November of even-numbered year)
 - Any county or city
 - Any time
 - Two methods of initiating
 - Referral by county or city governing body
 - Local initiative petition

Measure 91 Election Results

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Measure 91 Election Results

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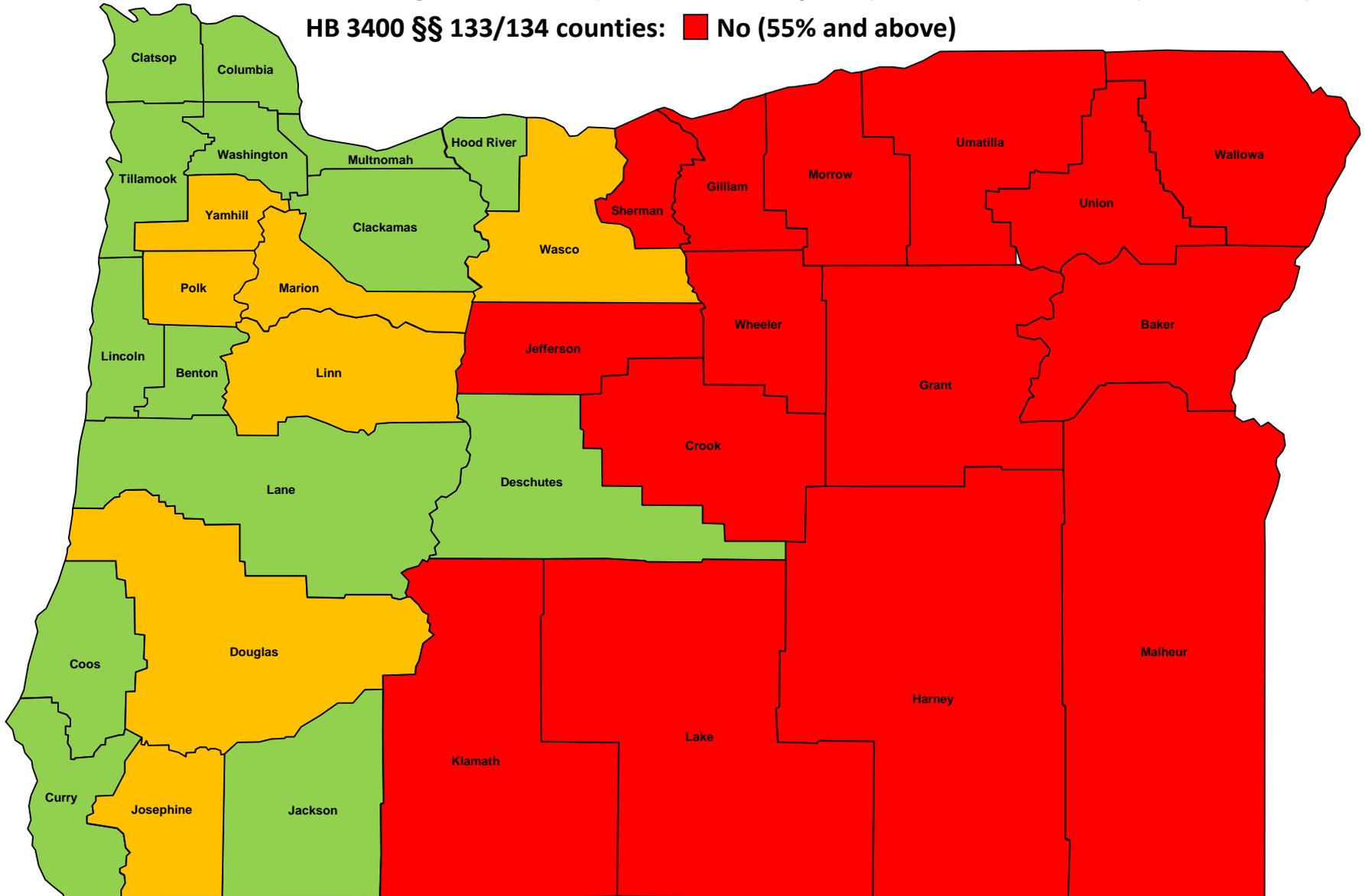
Source: Oregon Secretary of State, Elections Division

* Difference of 2 votes ** Difference of 60 votes

Measure 91 Election Results and HB 3400 Opt Out Options

HB 3400 § 134 counties (local election required): ■ Yes and ■ No (less than 55%)

HB 3400 §§ 133/134 counties: ■ No (55% and above)



Election on November 8, 2016

- **7 statewide ballot measures**
- **337 local ballot measures**
 - 184 of 337 were local marijuana ballot measures



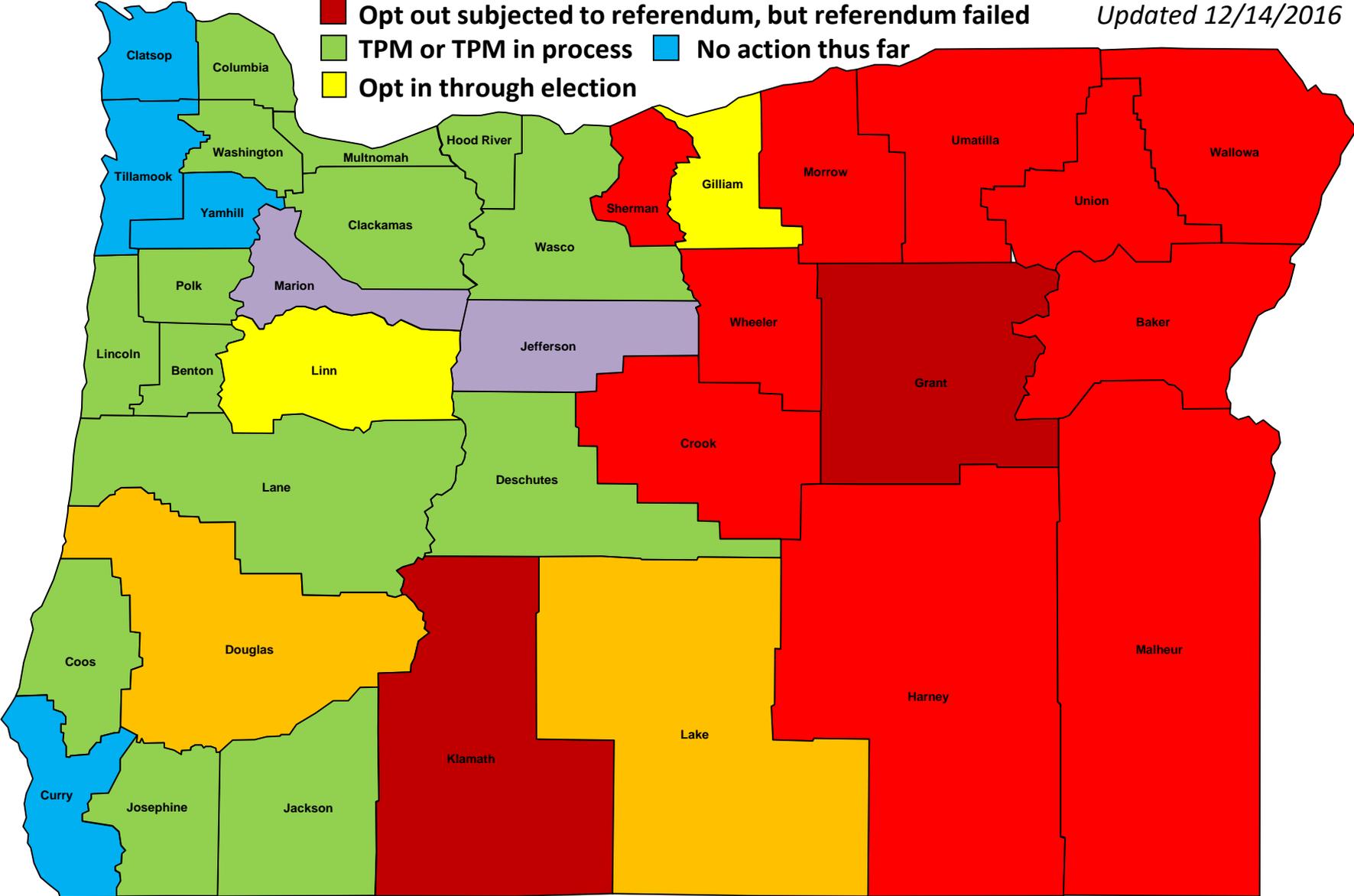
Allowing Marijuana Businesses

- **61 counties and cities (73 Measures)**
 - 6 counties (13 measures)
 - 3 voted to allow (4 measures)
 - 55 cities (60 measures)
 - 24 voted to allow (25 measures)

Local Control of Marijuana Businesses in Oregon Counties

- Opt out
- Opt out through election
- Opt out of retail only through election
- Opt out subjected to referendum, but referendum failed
- TPM or TPM in process
- No action thus far
- Opt in through election

Updated 12/14/2016



Another Opt Out Path?

- **Opt Out**

- **There were two lead cases**

- *City of Cave Junction v State of Oregon*
("Cave Junction I")
- *Providing All Patients Access v City of Cave Junction*
("Cave Junction II")



- **Issues:**

- **1. Does state law preempt local opt out of marijuana businesses (other than through state statute paths)?**
- **2. If so, does federal law, in turn, preempt?**

Issue 1. Home Rule in Oregon

- **Dillon's Rule**

- *"Show me where I can"*



- **Home Rule**

- *"Show me where I can't"*

Issue 1. Key Home Rule Cases

- ***LaGrande/Astoria***
 - *LaGrande/Astoria v PERB*, 281 Or 137, 576 P2d 1204, aff'd on reh'g 284 Or 173, 586 P2d 765 (1978)
- ***Haley v Troutdale***
 - *State ex rel Haley v City of Troutdale*, 281 Or 203, 576 P2d 1238 (1978)
- ***Gunderson***
 - *Gunderson LLC v City of Portland*, 352 Or 648, 658-59, 290 P3d 803 (2012)
- ***City of Phoenix***
 - *Rogue Valley Sewer Services v City of Phoenix*, 357 Or 437, 353 P3d 581 (2015)
- ***GTE v PUC***
 - *GTE v PUC*, 179 Or App 46, 39 P3d 201, rev den, 334 Or 492 (2002)

Issue 2. Key Supremacy Clause Cases

- ***Emerald Steel***

- *Emerald Steel Fabricators v BOLI*,
348 Or 159, 230 P3d 518 (2010)



- ***Willis v Winters***

- *Willis v Winters*,
350 Or 299, 253 P3d 1059 (2011)



- ***Ter Beek***

- *Ter Beek v City of Wyoming*,
495 Mich 1, 846 NW2d 531 (2014)



Status of *Cave Junction* Cases

- **1. Cave Junction I**
 - LOC/AOC prevailed in trial court
 - State law does not preempt (*case # 14CV0588*)
 - Appealed to the Oregon Court of Appeals (*case # A158118*)
- **2. Cave Junction II**
 - City/LOC/AOC prevailed in trial court
 - Federal law preempts any state preemption (*case # 14CV1246*)
 - Appealed to the Oregon Court of Appeals (*case # A160044*)
- **But the City changed its mind and opted in**
 - Cases dismissed as moot
 - 289 Or App 216 (2017)

b. Local Regulations

- **Land use and zoning**
 - 36 counties with 36 different land use plans
 - LUCS required for all OLCC producer, processor, wholesaler, and retailer licenses, except small canopy producers
- **Local time, place and manner regulations**
 - Supplement to state laws and rules

Time Place and Manner Regulations

- “Reasonable” TPM over seven categories of state licensed or registered marijuana businesses:

- Producers
- Processors
- Wholesalers
- Retailers
- Designated growers
- Processors
- Dispensaries



What's Reasonable?

- **TPM / Land Use**
 - **Lead case:**
 - *Diesel v Jackson County*,
284 Or App 301 (2017)
 - **Issue:**
 - **Whether prohibition
of commercial growing
in RR zone is “reasonable”**
 - **LUBA: It's reasonable**
 - **Oregon Court of Appeals: It's reasonable**

No. 109

March 8, 2017

301

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

Sandra DIESEL,
Petitioner,

v.

JACKSON COUNTY,
Respondent.

Land Use Board of Appeals
2016039; A163267

Argued and submitted December 9, 2016.

Ross A. Day argued the cause for petitioner. With him on the brief were Matthew Swihart and Day Law & Associates, PC.

Joel Benton argued the cause and filed the brief for respondent.

Before Armstrong, Presiding Judge, and Tookey, Judge, and Shorr, Judge.

SHORR, J.

Affirmed.

c. Local Taxation

- **Up to 3% supplemental local tax on sales**
 - Medical products exempt
 - Must hold local election - general election (November of even-numbered year)

Election on November 8, 2016

- **7 statewide ballot measures**
- **337 local ballot measures**
 - 184 of 337 were local marijuana ballot measures



Local Retail Marijuana Tax

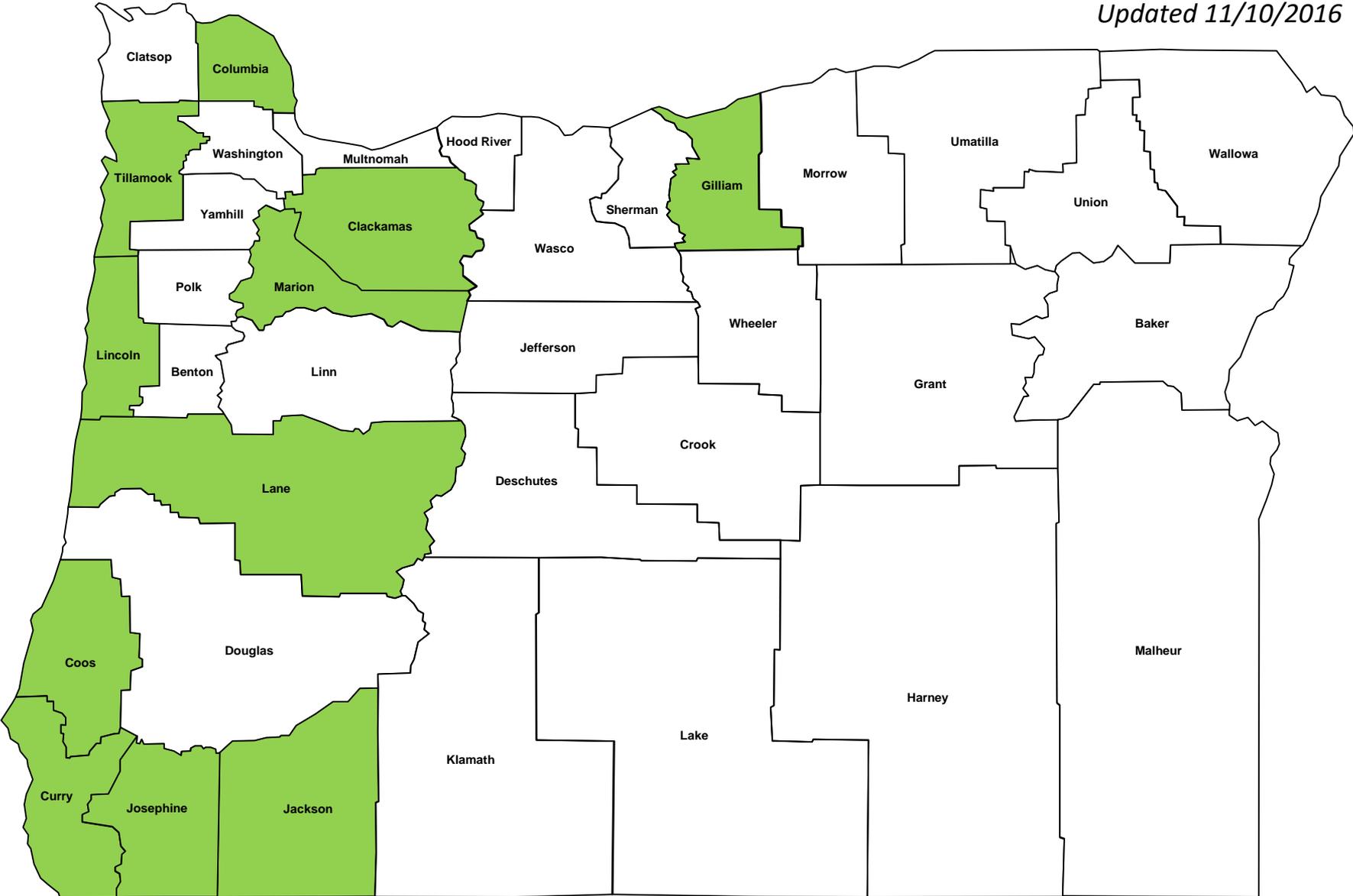
- **111 counties and cities**
 - 11 counties
 - 100 cities
- **All 111 passed**
 - Most by significant margins



Marijuana Local Option Tax in Oregon Counties

■ 3% local option marijuana tax passed November 8, 2016

Updated 11/10/2016



5. Oregon administrative rules

Two Primary Agencies

- Oregon Health Authority (OHA)



- <http://www.oregon.gov/oha/mmj/Pages/rules.aspx>

- Oregon Liquor Control Commission (OLCC)



- <http://www.oregon.gov/olcc/marijuana/Pages/Recreational-Marijuana-Laws-and-Rules.aspx>

OHA - OAR 333 Division 007

http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_333/333_007.html

- **Standards for medical and retail products**
- Including
 - Labeling
 - Concentration and serving size limits
 - Testing



OHA - OAR 333 Division 008

- http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_333/333_008.html
- **Oregon Medical Marijuana Act**
- Including:
 - Registration of patients, caregivers, and growers
 - Regulation of growers, processors, and dispensaries
 - Recordkeeping and tracking system
 - Monitoring, investigation, and enforcement



OHA - OAR 333 Division 064

- http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_333/333_064.html
- **Accreditation of Laboratories**
- Including
 - ORELAP standards



Oregon
Health
Authority

OLCC - OAR 845 Division 025

- http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_845/845_025.html
- **Licensing and regulation of retail businesses**
- **Including**
 - Producers, processors, wholesalers, and retailers
 - Testing Laboratories
 - Researchers
 - Packaging and labelling
 - Seed-to-sale tracking
 - Advertising and signage
 - Investigation and enforcement



OLCC Rules – A Few Examples

- **OAR 845-025-2040(1)**
 - Producer Types by Canopy Size
- **OAR 845-025-1600(1)**
 - Local Inspections
- **845-025-1295**
 - Enforcement of Local Ordinances

OLCC Rules – Producer Types

- **OAR 845-025-2040 - Production Size Limitations**
 - (1) **Maximum Canopy Size Limits.**
 - (a) **Indoor Production.**
 - (A) **Micro tier I: Up to 625 square feet.**
 - (B) **Micro tier II: 626 to 1250 square feet.**
 - (C) **Tier I: 1251 to 5000 square feet.**
 - (D) **Tier II: 5,001 to 10,000 square feet.**
 - (b) **Outdoor production.**
 - (A) **Micro tier I: Up to 2,500 square feet.**
 - (B) **Micro tier II: 2501 to 5000 square feet.**
 - (C) **Tier 1: 5001 to 20,000 square feet.**
 - (D) **Tier II: 20,001 to 40,000 square feet.**

OLCC Rules - Local Inspections

- **OAR 845-025-1600 - State and Local Safety Inspections**
 - (1) All marijuana licensees may be subject to inspection of licensed premises by state or local government officials to determine compliance with state or local health and safety laws.

OLCC Rules - Local Ordinances

- **845-025-1295 - Local Ordinances**
 - **The Commission may impose a civil penalty, suspend or revoke any license for failure to comply with an ordinance adopted by a city or county pursuant ORS 475B.340 if the city or county:**
 - **(1) Has provided the licensee with due process substantially similar to the due process provided to a licensee under the Administrative Procedures Act, ORS 183.413 to 183.470; and**
 - **(2) Provides the Commission with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes that the licensee has violated the local ordinance.**

6. Some ongoing challenges

They are quite diverse

KATU  On Your Side

Girl scout sells cookies outside Portland pot shop: 'It's not against the rules'



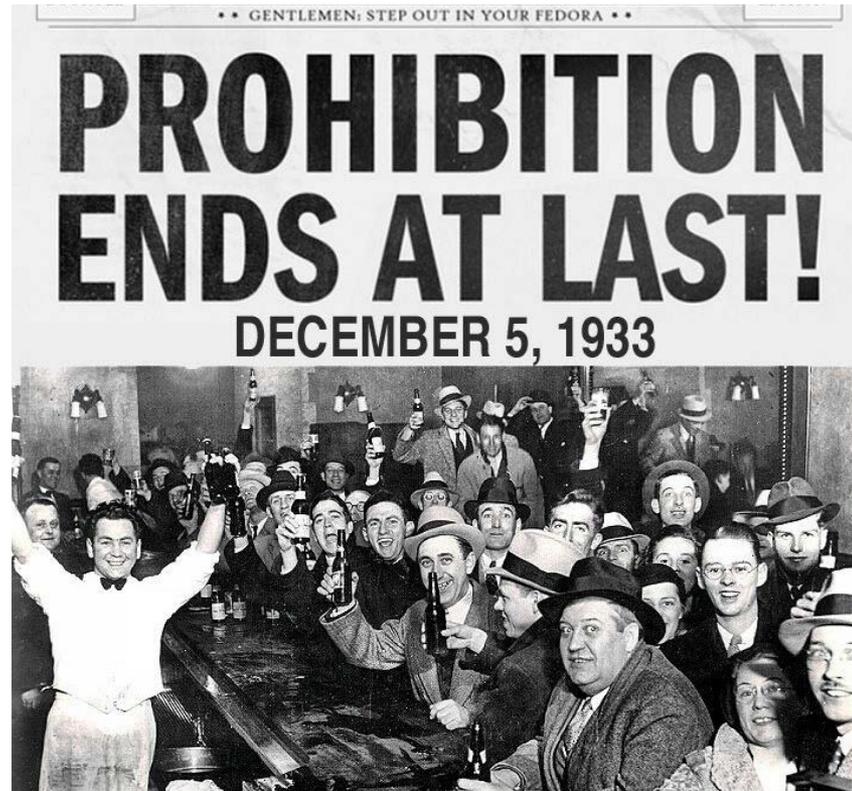
These is just my short list

In no particular order (and they are all interrelated):

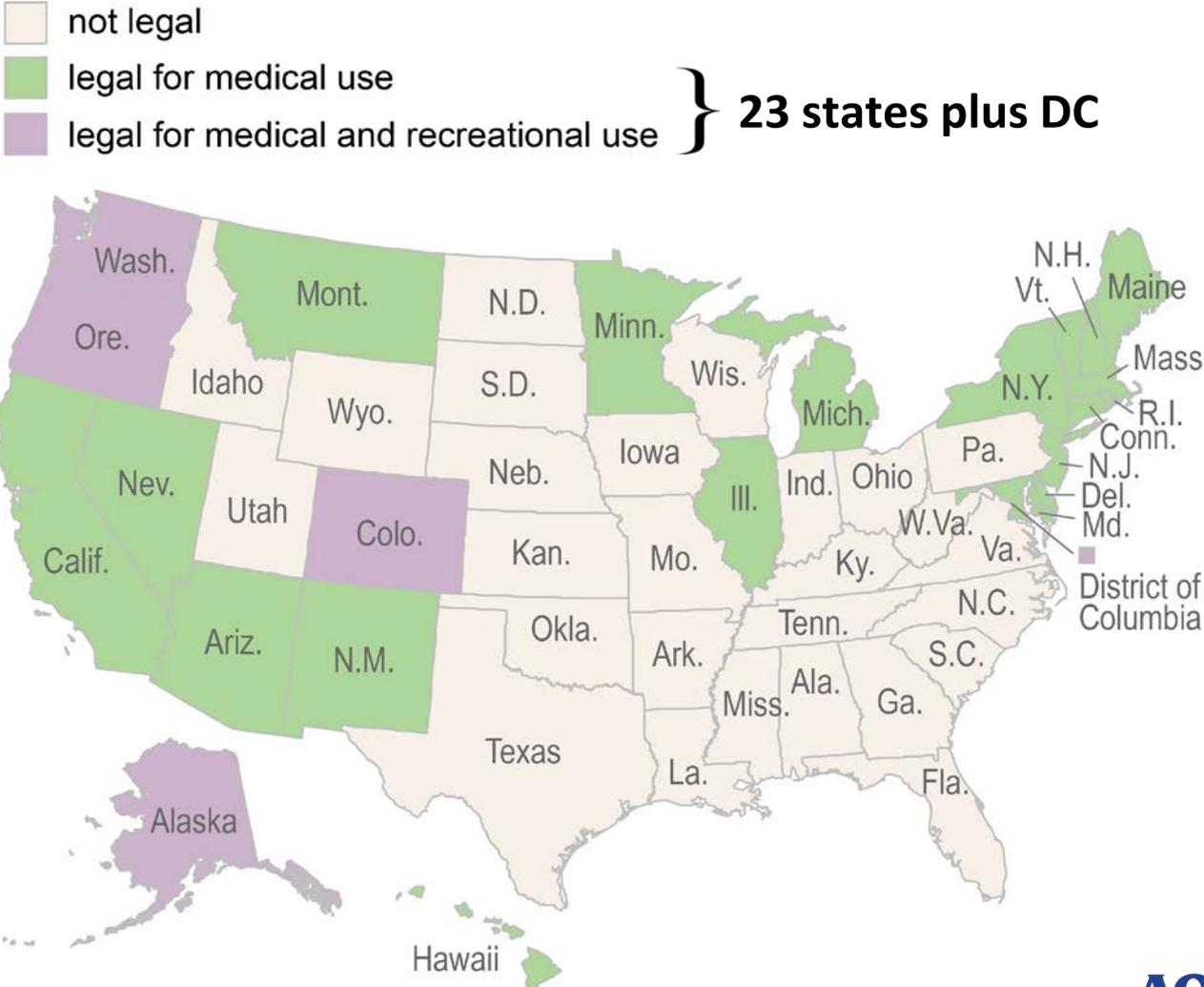
- **a. Federal-State Conflict**
 - **Prohibition**
 - **Leakage**
 - **Banking and income taxation**
 - **RICO**
- **b. Local regulation and NIMBY**
- **c. Youth usage**
- **d. DUII**
- **e. Homemade BHO**
- **f. State agency challenges**
- **g. State and local law enforcement resources**

Prohibition

- **A unique policy arena**
 - As compared to post-prohibition



Prior to November 8 Election



November 8 Marijuana Elections

- **Added 3 new medical states** (and expanded 1 existing)
 - **Arkansas Issue 6** **Yes 53%**
 - **Florida Amendment 2** **Yes 71%**
 - **Montana Initiative 182** (*expansion*) **Yes 58%**
 - **North Dakota Measure 5** **Yes 64%**
- **Added 4 recreational states** (each already allowed medical)
 - **Arizona Proposition 205** **No 51%**
 - **California Proposition 64** **Yes 57%**
 - **Maine Question 1** **Yes 50.26%**
 - **Massachusetts Question 4** **Yes 54%**
 - **Nevada Question 2** **Yes 54%**

What does it all mean?

- Getting out my Dragon Ball ¹ . . . uh, I mean Crystal Ball . . .



¹ [3,000 grams of pure cannabis extract measuring up to 99% THC. Approximate value = \\$150,000.](#)

What does it all mean?

 U.S. Department of Justice
Office of the Deputy Attorney General

The Deputy Attorney General Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

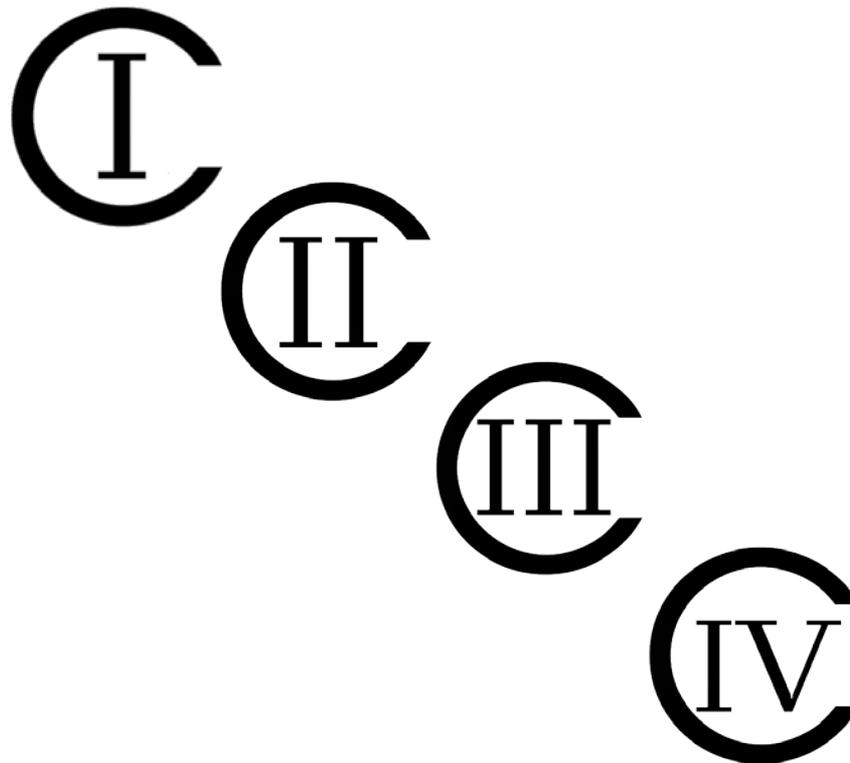
FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

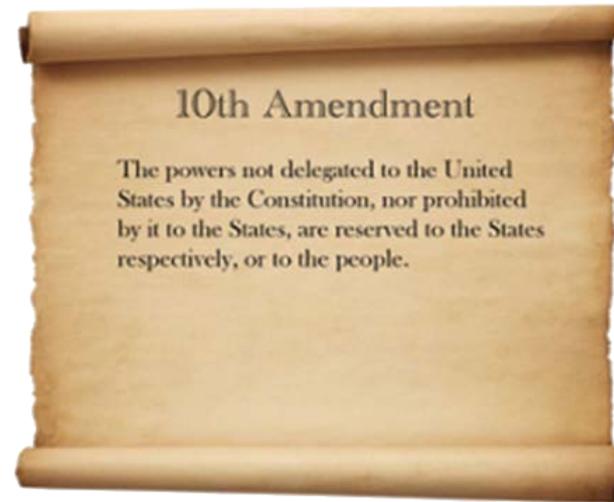
In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;



What does it all mean?



The Feds and Oregon

The Oregonian

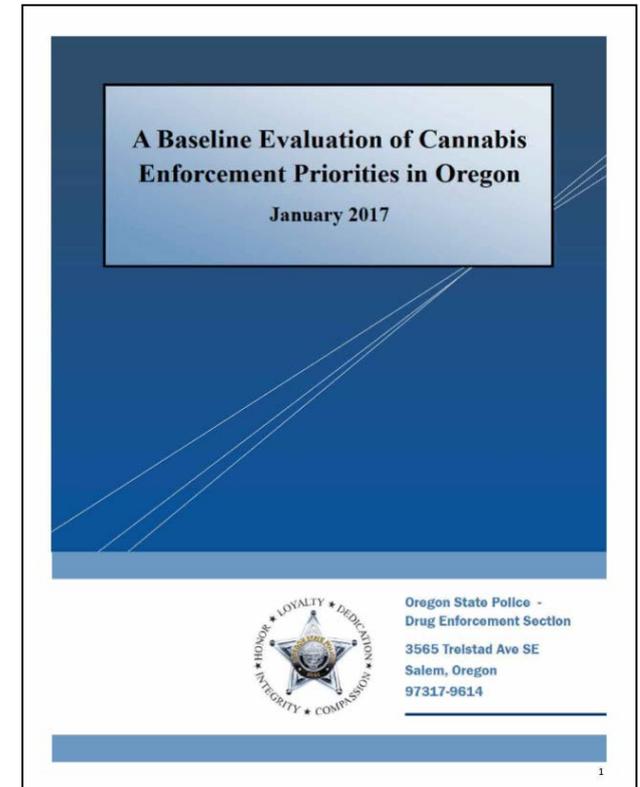
Oregon remains a top source for black market pot, state police report says

March 18, 2017

By Noelle Crombie

Marijuana legalization has done little to change Oregon's longstanding reputation as a leading black market exporter of premium cannabis, state police say in a new analysis obtained by The Oregonian/OregonLive.

The report offers an unvarnished view of both legal and illegal marijuana production in Oregon at a time of uncertainty for marijuana policy nationally.



http://www.oregonlive.com/marijuana/index.ssf/2017/03/oregon_a_top_source_for_black.html

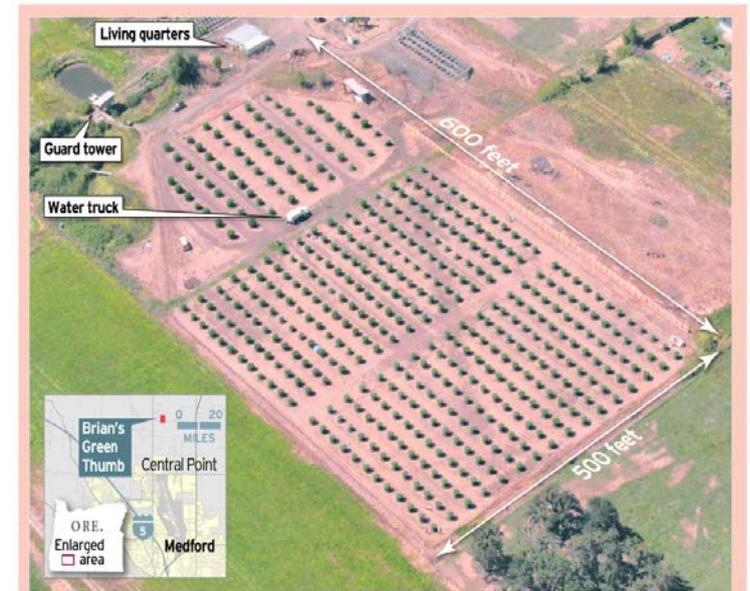
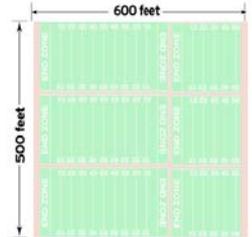
Leakage

- Black market
 - Intrastate *and* interstate
- Grows
 - Diversion
 - Illegal grows/illegal



A big harvest at Green Thumb Farm

Federal agents at Brian's Green Thumb Farm, shown in this surveillance photo, found more than 1,000 pounds of marijuana, two processing machines and a money counter. Prosecutors say the operation – large enough to accommodate 4½ football fields – exemplifies the massive over-production achieved by people exploiting Oregon's medical marijuana program. Operator Brian Wayne Simmons has been charged with drug conspiracy and is awaiting trial.



Source: U.S. Drug Enforcement Administration.

DAN AGUAYO/THE OREGONIAN

The Feds and Oregon

The Oregonian

Oregon defends legal marijuana market to feds

June 12, 2017

By Noelle Crombie



High-level state officials met recently with the U.S. attorney for Oregon to defend the state's efforts to regulate marijuana in a state notorious for black market trafficking.

The session, disclosed publicly Monday, took place as the Trump administration re-examines the federal government's approach to marijuana enforcement.

http://www.oregonlive.com/marijuana/index.ssf/2017/06/oregons_top_federal_prosecutor.html

The Feds and Oregon



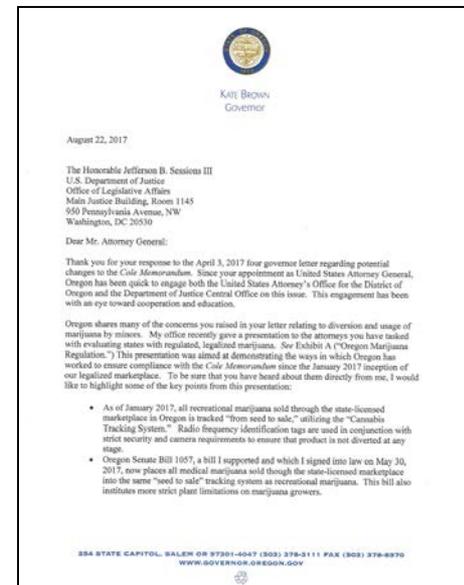
Think Out Loud

Fixing Oregon's black market marijuana problems

August 23, 2017

Gov. Kate Brown has been exchanging letters with U.S. Attorney General Jeff Sessions about Oregon's marijuana market.

Rob Bovett, legal counsel for the Association of Oregon Counties, who has been involved in crafting Oregon's legal policies around marijuana, joins us to explain what the state is doing to make sure cannabis grown for the medical market doesn't make its way onto the black market.



<http://www.opb.org/radio/programs/thinkoutloud/segment/kicker-immigration-legal-help-in-eugene-god-squad/>

The Feds

The Oregonian

Huff, puff, pass? AG's pot fury not echoed by task force

August 4, 2017

By Associated Press

WASHINGTON -- The betting was that law-and-order Attorney General Jeff Sessions would come out against the legalized marijuana industry with guns blazing. But the task force Sessions assembled to find the best legal strategy is giving him no ammunition, according to documents obtained by The Associated Press.

The Task Force on Crime Reduction and Public Safety, a group of prosecutors and federal law enforcement officials, has come up with no new policy recommendations to advance the attorney general's aggressively anti-marijuana views. The group's report largely reiterates the current Justice Department policy on marijuana.



http://www.oregonlive.com/marijuana/index.ssf/2017/08/huff_puff_pass_ag_s_pot_fury_no.html

The Feds

The Oregonian

Oregon reels after Sessions rescinds policy that allowed legal marijuana to flourish

January 4, 2018

By The Oregonian Staff and wire reports

WASHINGTON -- Attorney General Jeff Sessions on Thursday rescinded the Obama-era policy that had paved the way for legalized marijuana to flourish in states such as Oregon, a move that sent shockwaves through the local cannabis industry.

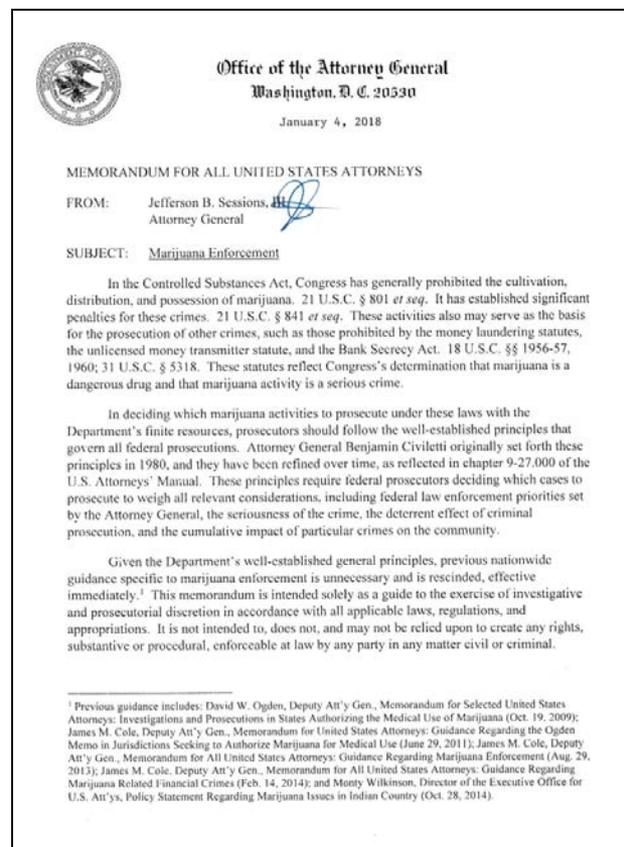
The Justice Department decision, outlined in a three-paragraph memo, will instead let federal prosecutors where pot is legal decide how aggressively to enforce federal marijuana law.



www.oregonlive.com/marijuana/index.ssf/2018/01/sessions_to_rescind_policy_tha.html

The Sessions Memo

- Revokes the Cole, Ogden, and Wilkinson Memos
- Defaults to standard federal drug prosecution criteria
- Hence each US Attorney decides, within usual federal criteria



The Feds and Oregon

The Oregonian

Oregon's top federal prosecutor reserving judgment on Sessions' pot memo

January 5, 2018

By Noelle Crombie



U.S. Attorney Billy Williams on Friday said he's troubled by the overproduction of marijuana in Oregon and the black market exportation of the crop to other states, though he declined to detail how his office will carry out a new federal directive stripping legal protections for marijuana businesses.

In his first public comments since Thursday's announcement by the U.S. Department of Justice, Williams told The Oregonian/OregonLive that he's awaiting additional guidance from federal officials. He offered a cautious response, saying he doesn't "believe in overreacting."

http://www.oregonlive.com/marijuana/index.ssf/2017/06/oregons_top_federal_prosecutor.html

The Feds and Oregon

The Oregonian

OP ED

U.S. Attorney: A call for transparency and action on marijuana

January 12, 2018

Earlier this month, Attorney General Jeff Sessions issued a memorandum rescinding existing Justice Department guidance on marijuana enforcement. The move gives U.S. Attorneys wide latitude to develop district-specific strategies and deploy department resources without Washington, D.C. artificially declaring some cases off limits. Before developing a strategy for Oregon, however, we need more information from the state.

Here's what we know right now.

Oregon has a massive marijuana overproduction problem. In 2017 alone, postal agents in Oregon seized 2,644 pounds of marijuana in outbound parcels and over \$1.2 million in cash. For comparison, postal agents in Colorado seized just 984 pounds of marijuana during a four-year period beginning in 2013.

Overproduction creates a powerful profit incentive, driving product from both state-licensed and unlicensed marijuana producers into black and gray markets across the country. This lucrative supply attracts cartels and other criminal networks into Oregon and in turn brings money laundering, violence, and environmental degradation.

http://www.oregonlive.com/opinion/index.ssf/2018/01/us_attorney_a_call_for_transpa.html

The Feds and Oregon

A survey of recent federal cases in Oregon illustrates alarming trends: in the last six months, federal agents and port police have seized over \$1 million in cash linked to marijuana transactions passing through Portland International Airport; law enforcement partners from 16 states have reported marijuana seizures from Oregon. In the first half of 2017, in-state production of butane hash oil resulted in six separate lab explosions. And police and sheriff deputies regularly encounter vehicles with hundreds of pounds of marijuana on highways heading out of state.

We also know that even recreational marijuana permitted under state law carries ill-effects on public health and safety, as Colorado's experience shows. Since 2013, marijuana-related traffic deaths have doubled in Colorado. Marijuana-related emergency and hospital admissions have increased 35 percent. And youth marijuana use is up 12 percent, 55 percent higher than the national average. We must do everything in our power to avoid similar trends here in Oregon.

As U.S. Attorney, I have traveled throughout the state to meet with community leaders and citizens to discuss distinctive issues facing rural Oregonians. Many of these conversations quickly turn to marijuana. Landowners throughout central and southwestern Oregon have legitimate concerns that marijuana cultivation has had a detrimental effect on water rights, public lands and livability.

Rural communities simply do not have the resources to fund the additional police and sheriff deputies needed to address these issues. While state officials have allocated a portion of marijuana tax revenues to public safety organizations including the Oregon State Police, the net effect on enforcement remains an open question. Moreover, can 20 Oregon Liquor Control Commission marijuana enforcement specialists adequately police thousands of recreational licensees?

http://www.oregonlive.com/opinion/index.ssf/2018/01/us_attorney_a_call_for_transpa.html

The Feds and Oregon

We don't know the answer to these questions, in part, because the state has yet to release a final version of its report evaluating out-of-state diversion, distribution to minors, cultivation on public land and violent crime associated with marijuana in Oregon. We need this information to move forward smartly, effectively, and transparently.

In sum, I have significant concerns about the state's current regulatory framework and the resources allocated to policing marijuana in Oregon.

Congress's judgment on marijuana activity is reflected in the Controlled Substances Act. Before charting a path forward for the enforcement of marijuana in Oregon, we must see how the state mitigates the public safety and health issues raised here. The time for informed action is now.

In the coming days, I will send invitations to federal, state, local and tribal law enforcement, public health organizations, Oregon marijuana interests and concerned citizen groups to attend a summit to address and remedy these and other concerns.

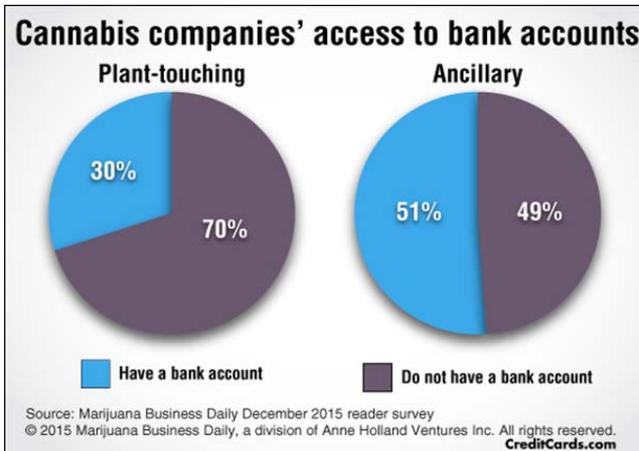
This summit and the state's response will inform our federal enforcement strategy. How we move forward will depend in large measure on how the state responds to the gaps we have identified. Until then it would be an inappropriate abdication of my duties to issue any blanket proclamations on our marijuana enforcement strategy in light of federal law. Billy J. Williams is the United States Attorney for the District of Oregon.

National policy has changed, but our commitment to exercising good judgment in charging decisions has not. We will continue to look at cases individually and assess whether charges are appropriate considering the best needs of our community.

Billy J. Williams is the United States Attorney for the District of Oregon.

http://www.oregonlive.com/opinion/index.ssf/2018/01/us_attorney_a_call_for_transpa.html

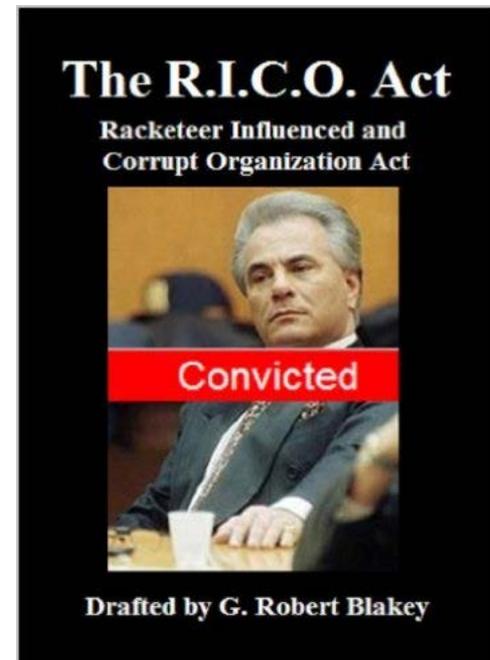
Banking and Income Taxation



RICO

- **RICO Cases**

- Racketeer Influenced and Corrupt Organizations Act
18 USC §§ 1961-1968
 - Enacted in 1970 as Title IX of the Organized Crime Control Act of 1970
 - Criminal
 - Including forfeiture
 - Civil
 - Injunctive relief
 - Treble damages
 - Attorney fees



Colorado

- **RICO Cases - Example**

- ***New Vision Hotels v Medical Marijuana of the Rockies***

- 15-cv-350 (D Colo, Feb 19, 2015)

- Plaintiff: Owns Holiday Inn, Frisco, Colorado
 - Defendants: Owners of Summit Marijuana dispensary planning to open retail, and business partners (property owner, construction contractor, bank, bonding company, accountant)



Case 1:15-cv-00350 Document 1 Filed 02/19/15 USDC Colorado Page 1 of 31

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-350

SAFE STREETS ALLIANCE and NEW VISION HOTELS TWO, LLC,
Plaintiffs,

v.

MEDICAL MARIJUANA OF THE ROCKIES, LLC, GERALD JAY OLSON, THE
MANAGERS, INC, ROBERT L. HAUSSMAN, CHRISTINE VOUTOUR, DAVID KATZ,
JOHN DOE 1, DIKJ FOWLER, BANK OF THE WEST, MERCHANTS BONDING CO.,
ACCOUNTING SPECIALISTS, INC., AND MICHAEL MASSA,
Defendants.

COMPLAINT

Colorado

Racketeering lawsuits target Colorado marijuana industry

Two lawsuits represent a new approach, putting pinch not only on pot shops, but also landlords, banks, accountants and other ancillary businesses — and it has led to the closure of one of the marijuana businesses

Monday, July 13, 2015

By Kristen Wyatt, Associated Press

A federal law crafted to fight the mob is giving marijuana opponents a new strategy in their battle to stop the expanding industry: racketeering lawsuits.

A Colorado pot shop recently closed after a Washington-based group opposed to legal marijuana sued not just the pot shop but a laundry list of firms doing business with it — from its landlord and accountant to the lowa bonding company guaranteeing its tax payments. One by one, many of the plaintiffs agreed to stop doing business with Medical Marijuana of the Rockies, until the mountain shop closed its doors and had to sell off its pot at fire-sale prices.

Oregon

The Oregonian

Neighbors in Colorado can sue pot grower for stinky smells, federal appeals court rules

June 7, 2017

By Associated Press

DENVER -- A pot farm's neighbor can sue them for smells and other nuisances that could harm their property values, a federal appeals court ruled Wednesday.

The 10th U.S. Circuit Court of Appeals ruling revives a lawsuit between a Colorado horse farm and a neighboring marijuana-growing warehouse.



http://www.oregonlive.com/today/index.ssf/2017/06/neighbors_in_colorado_can_sue.html

In Oregon?

Schwabe
WILLIAMSON & WYATT®

March 8, 2017

THOMAS M. TRIPLETT
Admitted in Oregon
T: 503-796-2901
triplett@schwabe.com

VIA E-MAIL (JACOB.RIPPER@DESCHUTES.ORG)
VIA FIRST CLASS MAIL

Deschutes County Commissioners
c/o Jacob Ripper, Associate Planner
Deschutes County
P. O. Box 6005
Bend, Oregon 97708-6005

RE: Appeal of Deschutes County Administrative Determination
Approving Recreational Marijuana Production Facility
247-16-000600-AD Rubio Real Estate Investments, LLC, Owner
By Douglas R. White, Oregon Planning Solutions, Applicant/Agent
23105 Alfalfa Market Road, Deschutes County
Appellants - Lance and Monika Piatt

Dear County Commissioners:

I write in support of the Piatt appeal. Certainly the normal issues of noise, smell, appropriateness to the area, and safety are key and common issues with which you deal frequently. This appeal brings another, important issue to the fore.

I am sure each of you is aware that growth, manufacture and distribution of marijuana violates federal law. It is also certain that federal law trumps state law on this subject. The Oregon Supreme Court in *SeEVERS v. Emerald Steel Fab*, 348 OR. 159 (1940) was faced with the question of whether a disabled user of medical marijuana could be disciplined by his employer for usage of the prescribed dosage. The employer had a no drug policy applicable to its employees. The Oregon Supreme Court adopted the defendant's argument as follows:

- Marijuana, including medical marijuana, is a proscribed substance under the Federal Controlled Substances Act.
- Use, sale, or distribution of marijuana violates federal law.
- Under the supremacy clause to the United States Constitution, the Oregon medical marijuana statute was unconstitutional.
- In consequence, the employee had no justiciable rights under the ADA.

This decision is not an outlier. Rather it is the unanimous opinion of courts which have dealt with the subject. See *Coats v. Dish Network* from the Colorado Supreme Court; and *James v.*

Portland Office | 151 SW 40 | Suite 100 | Portland, OR 97204 | M 503.222.0511 | F 503.781.5000 | schwabe.com

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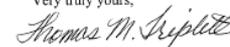
Deschutes County Commissioners
March 8, 2017
Page 2

City of California, among others. You should also recognize that the federal government recently refused to delist marijuana from the Controlled Substance list because of its grave and continuing health concerns.

Bottom line is that the land use applicant asks the County Commissioners to bless an activity which is unconstitutional and, which under federal law, is a crime. Nor may the Commissioners take solace under the Cole memoranda for two reasons. First, it is highly probably that Attorney General Sessions will withdraw the memoranda. But even more significant is the fact that civil liability can exist for the applicant, and potentially the Commissioners under the Federal RICO statute. Further, the County may be exposed under Section 1983 of the 1867 Civil Rights Act for damages sustained by the neighbors.

I strongly recommend that the County deny the land use applicant. At minimum, it should defer action pending clarification by the Attorney General.

Very truly yours,


Thomas M. Triplett

TMT:bak

cc: David Doyle, Esq. (david.doyle@deschutes.org)

schwabe.com

FOXX:088044633786TMT20233184.1

Oregon

The Oregonian

Beavercreek property owners file racketeering suit against neighbors growing marijuana

July 5, 2017

By Maxine Bernstein

Two Beavercreek property owners are relying on a federal law usually reserved to fight organized crime to sue their neighbors, contending the people next door are engaged in racketeering by producing and selling marijuana.

Rachel McCart and Erin McCart, who own about 11 acres of fenced pastures and woodland off South Highland Crest Drive, say the operation harms their quality of life and diminishes the value of their land.

Case 3:17-cv-00927-AC Document 1 Filed 06/13/17 Page 1 of 61

1 Rachel Kosmal McCart, OSB #091303
2 Email: Rachel@equinelegalsolutions.com
3 Equine Legal Solutions, PC
4 24150 S. Highland Crest Dr.
5 Beavercreek, OR 97004
6 Telephone: (866) 385-2972
7 Fax: (503) 343-9680

8 Of Attorneys for Plaintiffs Rachel McCart and Erin McCart

9

10 RACHEL MCCART and ERIN)
11 MCCART,) No.
12)
13 Plaintiffs)
14 v.) COMPLAINT
15) For Violation of
16 CLIFFORD BEDDOW; CAROL) to 18 USC § 1962
17 BEDDOW; JEFFREY SIMONSON,)
18 HIDDEN ACRES REAL ESTATE, LLC;)
19 GOOD NEIGHBOR FARMS, LLC;)
20 DONALD KOPSHY; ANGELA KOPSHY;)
21 CHARLES NEAL; JAY HASER;)
22 GREENLAND HOLDINGS, INC.;)
HERBACEOUS FARMS, LLC; JOHN)
DININO; ROBERT DININO; MARY)
CROSS, aka MARY TINKLER, aka MARY)
TINKLER, CROSS, GRAND, LLC;)
WILLIAMS, LLC; BCC HOLDINGS, LLC;)
DAVID ALPORT; CFA RETAIL, LLC;)
MICHAEL J. GENOVESE; DIVINE KIND,)
INC.; NITIN KHANNA; TIDEWATER)
RETAIL, INC.; TIDEPOOL OREGON)
CITY, INC.; TIDEPOOL CORVALLIS,)
INC.; TIDEPOOL EAST, INC.;)
TIDEPOOL MILWAUKIE, INC.;)
TIDEPOOL NORTEAST, INC.;)

Page 1 --COMPLAINT

Equine Legal Solutions, PC
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Telephone: (866) 385-2972
Fax: (503) 343-9680
Email: rachel@equinelegalsolutions.com

http://www.oregonlive.com/pacific-northwest-news/index.ssf/2017/07/beavercreek_couple_files_racke.html

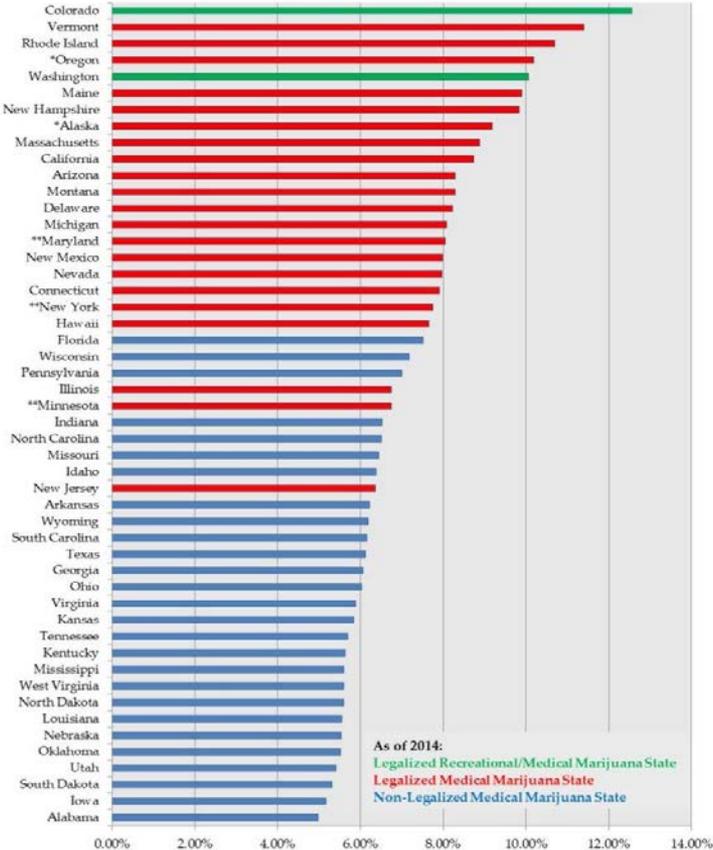
b. Local Regulation and NIMBY

- Opt in/out
- TPM
 - Land use



c. Youth Usage

Past Month Usage by 12 to 17 Years Old, 2013/2014



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

NOTE:
 *Oregon and Alaska voted to legalize recreational marijuana in November 2014
 **States that had legislation for medical marijuana signed into effect during 2014



d. DUI

Marijuana DUIs expected to increase

Recommend 0 Tweet 0 +1 0 Share Print Email ☆



Sgt. Ben Drongesen, Drug Recognition Expert with the Benton County Sheriffs Office, talks about using stethoscopes and blood pressure cuffs to evaluate if someone is under the influence of drugs.

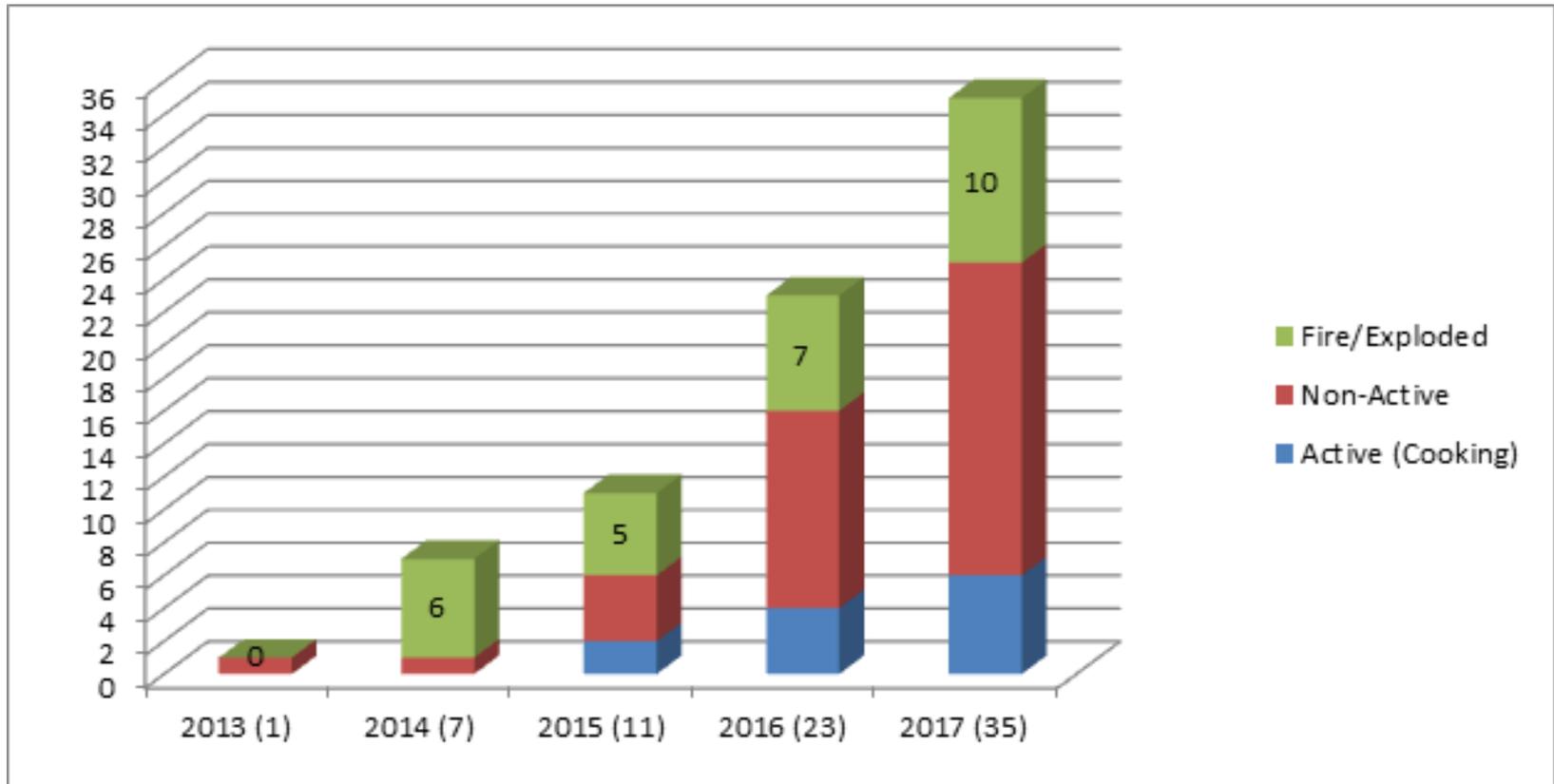
Buy Now



e. Homemade BHO



e. Homemade BHO



e. Homemade BHO

The Oregonian

Editorial: State should take stronger steps to curb illegal hash-oil labs

August 31, 2017

By Oregonian Editorial Board

Oregon has been showing the nation just how normal life with legalized recreational marijuana can be. Voters overwhelmingly approved legalization in 2014. A bipartisan legislative committee translated that vision into a framework. And the state can now proudly point to a booming industry that generates tens of millions of dollars in taxes and thousands of jobs.



Unfortunately, state officials haven't shown the same matter-of-fact mentality in responding to one of the most threatening side effects: The rise of butane hash oil manufacturing by unlicensed processors.

http://www.oregonlive.com/opinion/index.ssf/2017/08/state_should_take_stronger_ste.html

f. State agency challenges

- Regulation
- Enforcement

REGULATE



Oregon
Health
Authority

g. State and local law enforcement resources



g. State and local law enforcement resources



News Release

Oregon Liquor Control Commission
9079 SE McLoughlin Blvd., Portland, OR 97222-7355
1-800-452-6522

For more information:
Mark Pettinger, Spokesperson
Mark.pettinger@oregon.gov
503-872-5115

September 12, 2017

OLCC Partners With Law Enforcement to Tackle Illegal Marijuana Operations New Collaborative Approach and Policy Change



News Release

Oregon Liquor Control Commission
9079 SE McLoughlin Blvd., Portland, OR 97222-7355
1-800-452-6522

For more information:
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Mark.pettinger@oregon.gov
503-872-5115

September 12, 2017

OLCC Partners With Law Enforcement to Tackle Illegal Marijuana Operations New Collaborative Approach and Policy Change

Medford, Oregon – The Oregon Liquor Control Commission today met with law enforcement officials, local district attorneys and US attorney's office officials to announce policy changes and partnership efforts. Director Steven Marks informed the group today of OLCC's licensing and enforcement efforts and announced policy changes to further constrict the diversion of marijuana into the illegal market.

In order to ensure that marijuana produced during the 2017 outdoor growing season isn't diverted to the illegal market the OLCC is making an exception to rules defining mature plants for outdoor producers. The exception will apply to applicants that submitted valid applications to the OLCC before June 23, 2017. "This step is one of the remedies we're putting into place in order to ensure the success of the regulated marijuana market, and to further reduce the ability of product to reach the illegal market," said Steven Marks, OLCC Executive Director.

Oregon State Police will have a marijuana team co-locate with the OLCC Medford regional office. There will also be a team assigned out of the OSP office in Salem or Portland. "OSP has the expertise and resources to figure out which law enforcement agencies need to be involved, whether it's a city police department or multi-agency task force," said Marks. "Together we can address that gray area, illegal grows and processing sites that OLCC doesn't have the ability to regulate and bring forward for prosecution."

Since January 1, 2017 the OLCC has received almost 1,000 new recreational marijuana applications and about 400 of those were for outdoor or mixed production licenses. In addition to processing these new applications OLCC staff have been handling license renewals and license changes.

As the 2017 fall harvest approaches the OLCC is trying to get as many people licensed and into the regulated system. At the same time Oregon's legalized marijuana industry has been supportive of compliance and enforcement activity. "As the second outdoor harvest under the regulated system approaches the OLCC expects better reporting and compliance," said Marks. "Licensees have been using the Cannabis Tracking System for a year and our staff is in a better position to manage and control the regulated system."

--###--

http://www.oregon.gov/olcc/docs/news/news_releases/2017/nr_09_12_17_OSPShare.pdf

7. New and revised marijuana offenses



AOC
Association of
Oregon Counties

New and Revised Oregon Marijuana Offenses

 **PORT OF PORTLAND**
Possibility. In every direction.™

Friday, April 14, 2017 (Updated April 21, 2017)

Rob Bovett
Special Prosecutor
Lincoln County District Attorney's Office

Handouts

- Summary



Brief Summary of Selected Oregon Marijuana Laws Effective April 21, 2017

Prepared by Rob Bovett
Special Prosecutor, Lincoln County
Legal Counsel, Association of Oregon Counties

Updated April 25, 2017



Measure 91 Personal Allowances (for those 21 and over) ORS 475B.245

Personal possession

Per household
Up to 4 plants, 8 oz bud/leaf, 16 oz solids, 16 oz concentrates, 72 oz liquids, and 1 oz extracts

In a public place
Up to 1 oz bud/leaf (instead of 8)

Delivery (homemade, for no consideration, to those 21 and over)
Up to 1 oz, 16 oz solids, 16 oz concentrates, and 72 oz liquids

Unlawful Possession

Person 21 or older		
Over, but not > 2x	B Viol	2017 e.21 §3(3)(a)
> 2x but not > 4x	B Misd	2017 e.21 §3(3)(b)
> 16x at household	C Fel	2017 e.21 §3(3)(c)(A)
> 8 pounds in public place	C Fel	2017 e.21 §3(3)(c)(B)
Any unlawful extract	A Misd	2017 e.21 §3(2)
> ¼ oz of unlawful extract	C Fel	2017 e.21 §3(3)(c)(C)
All other	A Misd	2017 e.21 §3(2)
Person under 21		
Up to what 21 or older could possess	B Viol	ORS 475B.260(3)(a)
Same while operating a motor vehicle	A Viol	ORS 475B.260(3)(b)
Over what 21 or older could possess	A Misd	2017 e.21 §4(2)
> 16x at household	C Fel	2017 e.21 §4(3)(a)
> 8 pounds in public place	C Fel	2017 e.21 §4(3)(b)
Any unlawful extract	A Misd	2017 e.21 §4(2)
> ¼ oz of unlawful extract	C Fel	2017 e.21 §4(3)(c)
All other	A Misd	2017 e.21 §4(2)

Unlawful Delivery

> 1 oz by person > 21 to > 21 for no consideration	B Misd	2017 e.21 §5(3)(a)
> 16 times personal allowance	C Fel	2017 e.21 §5(3)(b)(A)(i)
> 8 pounds in public place	C Fel	2017 e.21 §5(3)(b)(A)(ii)
> ¼ oz of unlawful extract	C Fel	2017 e.21 §5(3)(b)(A)(iii)
To person < 21, except if person < 24 to person		
16 or older for no consideration	C Fel	2017 e.21 §5(3)(b)(B)
All other	A Misd	2017 e.21 §5(2)

Unlawful Manufacture

Over, but not > 8 plants (person 21 or older)	B Misd	2017 e.21 §6(3)(a)
> 12 plants	C Fel	2017 e.21 §6(3)(b)(A)
> 2x products or concentrates	C Fel	2017 e.21 §6(3)(b)(B)
Any extract	B Fel	2017 e.21 §6(3)(c)
All other	A Misd	2017 e.21 §6(2)

- PowerPoint



New and Revised Oregon Marijuana Offenses



PORT OF PORTLAND
Possibility. In every direction.™

Friday, April 14, 2017 *(Updated May 8, 2017)*

Rob Bovett
Special Prosecutor
Lincoln County District Attorney's Office





Web Page

<http://oregoncounties.org/news/publications/marijuana/>



Association of Oregon Counties

United Counties. United Oregon.

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Marijuana



This page contains AOC publications relating to regulation and taxation of marijuana in Oregon.

In 1973, Oregon became the first state in the Nation to decriminalize certain user amounts of marijuana (1973 Oregon House Bill 2936). In 1998, Oregon became the second state in the Nation to legalize medical marijuana (1998 Oregon Ballot Measure 67). In 2014, Oregon became the third state in the Nation to legalize recreational marijuana (2014 Oregon Ballot Measure 91).

Marijuana touches on many policy areas in which counties are heavily involved, such as **public health, public safety, land use, governance, and economic development**, to name just a few. AOC and its steering committees are therefore directly involved in marijuana policy in the Oregon legislature. The lead role for AOC is the AOC Governance Committee and AOC Legal Counsel Rob Bovett.

Publications

2017 Oregon Cannabis Legislation (last updated July 7, 2017 – upon adjournment)

- * ENACTED: **Senate Bill 56** (The Miscellaneous Bill) (2017 Oregon Laws, Chapter 476)
- * ENACTED: **Senate Bill 302** (The Marijuana Offense Bill) (2017 Oregon Laws, Chapter 21)
- * ENACTED: **Senate Bill 303** (The Minor in Possession Bill) (2017 Oregon Laws, Chapter 20)
- * ENACTED: **Senate Bill 1015** (The Hemp Transfer Bill) (2017 Oregon Laws, Chapter 531)
- * ENACTED: **Senate Bill 1057** (The Omnibus Bill – including medical production tracking) (2017 Oregon Laws, Chapter 183)
- * ENACTED: **House Bill 2197** (The State-Tribal Tax Bill) (2017 Oregon Laws, Chapter ___)
- * PENDING GOVERNOR SIGNATURE: **House Bill 2198** (The Medical Bill – including Cannabis Commission and 20 pound amendment)
- * PENDING GOVERNOR SIGNATURE: **House Bill 2199** (The Tax Distribution Bill) (in lieu of **Senate Bill 845**) (The Tax Distribution Bill)

- New Oregon Marijuana Offenses (effective April 21, 2017)
- * **Handout** (PDF) (2 page handout) (172kb) (last updated April 25, 2017)
- * **PowerPoint** (PDF) (34 slides) (1mb) (last updated May 8, 2017)



Disclaimer

- **These materials and presentation have been prepared by Rob Bovett, Special Prosecutor with the Lincoln County District Attorney's Office, for use in guiding Lincoln County law enforcement personnel in the implementation of new laws relating to marijuana offenses that went into effect on April 21, 2017. Any other law enforcement personnel should check with their own District Attorney before relying on these materials or presentation.**



Mostly Won't Be Covering Today

- OLCC or OHA licensee offenses



Let's Start Here

- **Section 6 of Measure 91, as amended (ORS 475B.245)**
 - **Personal possession**
 - Per household: Up to 4 plants, 8 oz, 16 oz solids, 16 oz concentrates, 72 oz liquids, and 1 oz extracts
 - In a public place: Up to 1 oz
 - **Delivery**
(homemade, for no consideration, to those 21 and over)
 - Up to 1 oz, 16 oz solids, 16 oz concentrates, and 72 oz liquids



Visual aid, courtesy of PPB

POSSESSING MARIJUANA:

a visual aid

PORTLAND POLICE BUREAU

Sworn to Protect  Dedicated to Serve

1 OUNCE



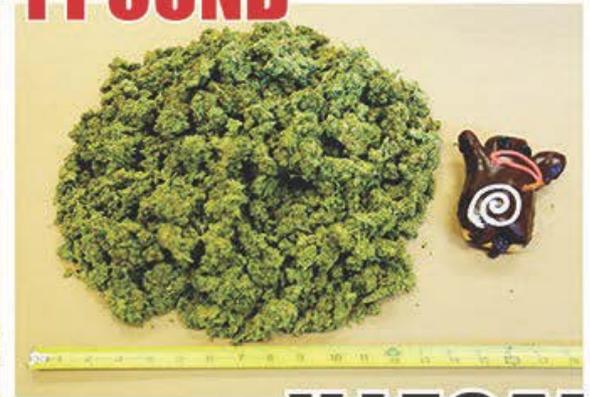
LEGAL on person

8 OUNCES



LEGAL in household

1 POUND



ILLEGAL

“Concentrate” versus “Extract”

- **Concentrates**
 - Mechanical extraction, or chemical extraction using non-hydrocarbon based solvent, with no high-heat or pressure
- **Extracts**
 - Chemical extraction process using hydrocarbon-based solvent, or using high heat or pressure



Public health and safety issues with BHO

Butane hash oil explosion rocks Parkrose house



Investigators said Monday's explosions in a Parkrose home were caused by butane hash oil production. Hash oil, a potent and popular form of cannabis, can be made using butane, a highly flammable gas. BHO can be consumed using discreet portable pen-like devices or specially outfitted pipes called oil rigs. A small bit of hash oil is placed in the pipe's compartment, which is heated with a torch. The hash vaporizes and the consumer inhales through the pipe, a technique called "dabbing." *(Beth Nakamura/The Oregonian)*



By Noelle Crombie | [The Oregonian/OregonLive](#)

[Email the author](#) | [Follow on Twitter](#)

on March 08, 2016 at 11:43 AM, updated March 15, 2016 at 9:24 AM



LEGAL MARIJUANA



How much pot can Oregonians possess?

Now that recreational marijuana is legal in Oregon, more Oregonians are interested in growing it.

Pot Grow Diary: The Oregonian grows weed. We've got seeds and clones.

- ▶ Should I grow marijuana indoors or outdoors? | [Growing 'Grass' \(Part 1\)](#)
- ▶ Should I grow marijuana from seed or clone? | [Growing 'Grass' \(Part 2\)](#)
- ▶ How to sprout marijuana seeds | [Growing 'Grass' \(Part 3\)](#)



Homemade butane hash oil prohibited under Oregon's new legal marijuana law



May 5, 2012 - Legacy Emanuel Medical Center, home to the state's only burn unit, released to The Oregonian this image of a patient burned in a BHO explosion. "All have caused major injuries," Dr. Nick Eshraghi, a surgeon and associate director of Legacy Emanuel Medical Center's burn unit, said of the butane explosions. "You are talking about an entire room being engulfed in flames and one's clothing

Most Read



Want to grow your own marijuana? Here is how to get started in Oregon



Driving with marijuana in Oregon: Reader questions



Ask me anything: Noelle Crombie, Jeff Mapes take your questions as marijuana becomes legal in Oregon

Legal marijuana



The New and Revised Offenses

- **With the personal allowance provisions in mind, let's next look at what the new and revised marijuana offenses look like . . .**



Trade Offs in SB 302 and SB 303

Juilliard-trained cellist busted in Oregon with 113 pounds of marijuana in his car

BY DAN GOOD / NEW YORK DAILY NEWS / Tuesday, February 16, 2016, 2:29 PM

A A A



SHARE THIS URL

nydn.us/1RKpgGA

COPY



OREGON STATE POLICE

Police released an image showing the marijuana found in David Huckaby's car.



Unlawful Possession

- **21 and over**

- | | | |
|------------------------------|--------|--------------------------|
| • Over, but not > 2x | B Viol | 2017 SB 302A §3(3)(a) |
| • > 2x but not > 4x | B Misd | 2017 SB 302A §3(3)(b) |
| • > 16x at household | C Fel | 2017 SB 302A §3(3)(c)(A) |
| • > 8 pounds in public place | C Fel | 2017 SB 302A §3(3)(c)(B) |
| • Any unlawful extract | A Misd | 2017 SB 302A §3(2) |
| • > ¼ oz of unlawful extract | C Fel | 2017 SB 302A §3(3)(c)(C) |
| • All other | A Misd | 2017 SB 302A §3(2) |



Unlawful Possession

- **Under 21**

- Up to what 21 or older could possess B Viol ORS 475B.260(3)(a)
 - Same while operating a motor vehicle A Viol ORS 475B.260(3)(b)
- Over what 21 or older could possess A Misd 2017 SB 302A §4(2)
- > 16x at household C Fel 2017 SB 302A §4(3)(a)
- > 8 pounds in public place C Fel 2017 SB 302A §3(3)(b)
- Any unlawful extract A Misd 2017 SB 302A §4(2)
- > ¼ oz of unlawful extract C Fel 2017 SB 302A §3(3)(c)
- All other A Misd 2017 SB 302A §4(2)



Unlawful Delivery

- > 1 oz by person > 21 to
> 21 for no consideration B Misd 2017 SB 302A §5(3)(a)
- > 16 times personal allowance C Fel 2017 SB 302A §5(3)(b)(A)(i)
- > 8 pounds in public place C Fel 2017 SB 302A §5(3)(b)(A)(ii)
- > ¼ oz of unlawful extract C Fel 2017 SB 302A §5(3)(b)(A)(iii)
- To person < 21
except if person < 24
to person 16 or older
for no consideration C Fel 2017 SB 302A §5(3)(b)(B)
- All other A Misd 2017 SB 302A §5(2)

NOTE: Enhancement for within 1,000 feet of a school repealed



Unlawful Manufacture

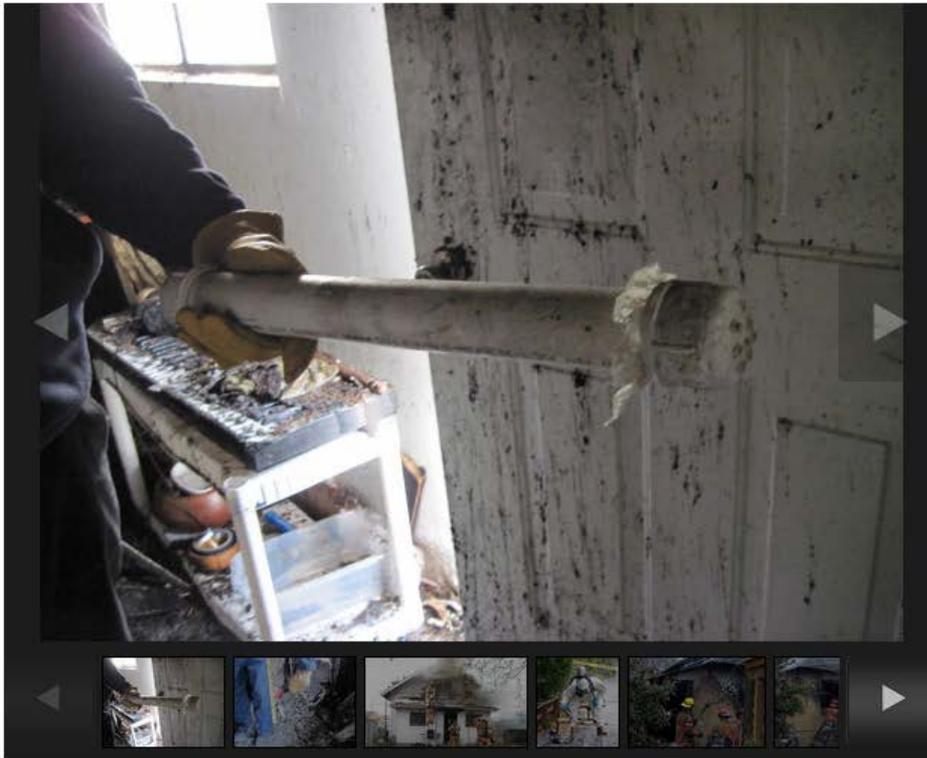
- | | | |
|--|--------|--------------------------|
| • Over, but not > 8 plants
(person 21 or older) | B Misd | 2017 SB 302A §6(3)(a) |
| • > 12 plants | C Fel | 2017 SB 302A §6(3)(b)(A) |
| • > 2x products or concentrates | C Fel | 2017 SB 302A §6(3)(b)(B) |
| • Any extract | B Fel | 2017 SB 302A §6(3)(c) |
| • All other | A Misd | 2017 SB 302A §6(2) |

NOTE: Enhancement for within 1,000 feet of a school repealed



Public health and safety issues with BHO

Butane hash oil: A single spark can lead to an explosion during production



Authorities combing through the scene of a November 2011 butane hash oil explosion in Medford found this pipe, which was used to make hash oil. The butane exploded when a heater in the home turned on. Seven people, including two children, escaped. Police said Clayton Morgan, 30, was making BHO in the bathtub when the blast occurred. Morgan and a woman in the house were burned in the blast, which

Most Read



Want to grow your own marijuana? Here is how to get started in Oregon



Driving with marijuana in Oregon: Reader questions



Ask me anything: Noelle Crombie, Jeff Mapes take your questions as marijuana becomes legal in Oregon

Legal marijuana



Arson Incident to Manufacture

- In the Second Degree C Fel 2017 SB 302A §9a
 - Similar to Arson in the Second Degree
 - Damage to
 - Any building of another person that is not protected property
 - The property of another, if the damages to the property exceed \$750



Import or Export

- > personal allowance A Misd ORS 475B.185(4)(a)(A)
 - > 16x personal allowance C Fel ORS 475B.185(4)(b)(B)
 - Any unlawful extract C Fel ORS 475B.185(4)(b)(B)
 - By OLCC licensee
 - For consideration C Fel ORS 475B.185(4)(b)(A)
 - For no consideration A Misd ORS 475B.185(4)(a)(A)
 - All other B Viol ORS 475B.185(3)
-
- NOTE: “Export” is complete when marijuana item is “placed in any mode of transportation for hire, such as luggage, mail or parcel delivery, even if the transportation of the marijuana item is intercepted prior to the marijuana item leaving this state.” - ORS 475B.185(1)



Everything Else

- Is mostly unchanged in substance
- But let's quickly review them . . .



Three that Moved

- **Causing another to ingest** A/B Fel 2017 SB 302A §11
 - Similar to ORS 475.908
- **Administering to person under 18** A Fel 2017 SB 302A §12
 - Similar to ORS 475.910
- **Sale of paraphernalia to person under 21** B Viol 2017 SB 302A §14
 - Similar to ORS 475.525



Use of Marijuana in a Motor Vehicle

2016 c.24 §49

- (1) As used in this section:
 - (a) “Consumes” includes the inhalation of smoke from a marijuana item by a driver or passenger of a motor vehicle.
 - (b) “Marijuana item” has the meaning given that term in ORS 475B.015.
- (2) A person commits the offense of use of marijuana in a motor vehicle if the person consumes in any manner a marijuana item while in a motor vehicle when the motor vehicle is upon a highway.
- (3) This section does not apply to passengers in a motor vehicle that is operated by a common carrier and used primarily to carry passengers for hire.
- (4) Use of marijuana in a motor vehicle, is a Class B traffic violation.



DUII

- **Unchanged**

- **A Misd ORS 813.010**
- **C Fel ORS 813.010(5)**
ORS 813.011

Marijuana DUIIs expected to increase

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Godofredo Vasquez, Mid-Valley Sunday

Sgt. Ben Drongesen, Drug Recognition Expert with the Benton County Sheriffs Office, talks about using stethoscopes and blood pressure cuffs to evaluate if someone is under the influence of drugs.

[Buy Now](#)



Use of Minor in Controlled Substance Offense

Manufacture, transport, delivery

- < 1 oz for no consideration A Misd ORS 167.262(1)/(2)(b)
- Other A Fel ORS 167.262(1)/(2)(a)



Producing, processing, storing in public view

ORS 475B.250

- (1) A person may not produce, process, possess or store homegrown marijuana, cannabinoid products or cannabinoid concentrates if the homegrown marijuana, cannabinoid products or cannabinoid concentrates can be seen by normal unaided vision from a public place.
- (2) A person may not possess or store a cannabinoid extract if the cannabinoid extract can be seen by normal unaided vision from a public place.
- (3) A violation of subsection (1) or (2) of this section is a Class B violation.



Use of Marijuana in a Public Place

ORS 475B.280

- (1) It is unlawful for any person to engage in the use of marijuana items in a public place.
- (2) A violation of subsection (1) of this section is a Class B violation.



Providing False ID of Age

ORS 475B.265

- (1) A person may not produce any piece of identification that falsely indicates the person's age.
- (2) Violation of this section is a Class A misdemeanor.
- (3) If a piece of identification is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of a marijuana item to a person under 21 years of age, the licensee or licensee representative is not guilty of any offense prohibiting a person from selling or serving a marijuana item to a person under 21 years of age unless it is demonstrated that a reasonable person would have determined that the identification exhibited by the person under 21 years of age was altered, or that the identification exhibited by the person under 21 years of age did not accurately describe the person to whom the marijuana item was sold or served.



Providing Marijuana to Intoxicated Person

ORS 475B.270(1)

- (1) A person may not sell, give or otherwise make available a marijuana item to a person who is visibly intoxicated.
- (3) Violation of this section is a Class A misdemeanor.



Allowing Consumption by Minor on Property

ORS 475B.270(2)

- (2)(a) A person who exercises control over private real property may not knowingly allow a person under 21 years of age to consume a marijuana item on the property, or allow another person under 21 years of age to remain on the property if the person under 21 years of age consumes a marijuana item on the property.
- (b) This subsection:
 - (A) Applies only to a person who is present and in control of the location at the time the consumption occurs; and
 - (B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual housing unit in which the owner or agent resides.
- (3) Violation of this section is a Class A misdemeanor.



Processing Extract into Another Product

ORS 475B.255

- (1) A person other than a marijuana processor that holds a license issued under ORS 475B.090 may not process cannabinoid extracts into a cannabinoid product.
- (2) Violation of this section is a Class A misdemeanor.



Giving Marijuana as a Prize

ORS 475B.275

- (1) A marijuana item may not be given as a prize, premium or consideration for a lottery, contest, game of chance, game of skill or competition of any kind.
- (2) Violation of this section is a Class A misdemeanor.



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Questions?

