



Oregon

Kate Brown, Governor

Liquor Control Commission

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March 3, 2015

The Honorable Peter Courtney,
President of the Senate

The Honorable Tina Kotek,
Speaker of the House

Senator Ginny Burdick,
Co-Chair of the Joint Interim Committee
on Ballot Measure 91 Implementation

Representative Ann Lininger,
Co-Chair of the Joint Interim Committee
on Ballot Measure 91 Implementation

Dear President Courtney, Speaker Kotek, and Co-Chairs Burdick and Lininger:

Last week, the Oregon Liquor Control Commission (OLCC) approved the attached *OLCC Marijuana Policy Recommendations* that detail a variety of important matters of which the Legislature may want to act upon to guide implementation of the Recreational Marijuana Program (Attachment A).

The recommendations are organized into three categories: (1) "Commission Request" are issues on which the Commission is seeking legislative action; (2) "Technical Fix" are recommendations to allow the OLCC to implement Ballot Measure 91 consistent with its provisions and intent; (3) "Other" is a selective compilation of policy issues, many of which were raised by participants in the listening tour meetings and may be of interest to the Legislature.

The Commission believes its recommendations and requested policy actions will better assure that federal guidance is adhered to, ensure integrity and consistency in forming



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this new system, as well as reflect some of the best practices we have gleaned from other states and from our experience with regulating liquor. The recommendations reflect the diligent work the OLCC is doing to implement Ballot Measure 91 consistent with the measure's policy statements and with U.S. Department of Justice guidance provided to state medical and recreational programs through the "Cole Memorandum" (Attachment B).

A linchpin for creating a stable recreational program that adheres to federal guidelines is to provide for product tracking through a "seed-to-sale" electronic inventory tracking system. Tracking systems, such as those used in Colorado and Washington and that are being considered by other states to monitor their medical product, are intended to ensure all production enters a legal supply chain and is tracked by electronic technology at each step from producers to retail sales. By implementing this technology for recreational marijuana in Oregon, the OLCC seeks to ensure product is not diverted to illegal markets. Importantly, this system will also ensure the integrity of timely tax collections from producers.

As you are aware, there has been much discussion related to how the recreational and medical programs may intersect, including combining and co-locating facilities.

Because plants and product are not tracked in the Oregon Medical Marijuana Program (OMMP), the program cannot provide assurance that there is no diversion to the black market. Medical production by growers for cardholders, and "card stacking" practices, produces an excess of product, not all of which is delivered to patients. There is debate about how much of the remainder of medical product is being shared with individuals and dispensaries, exported, lost, destroyed, wasted, or simply sold illegally. The fact that there is a debate is evidence that the system cannot meet federal guidelines. The Commission recommendations reflect concern that federal guideline compliance will be diminished if OMMP licensees or growers are allowed to produce or sell product through the recreational system. The conventions of existing law and practices that

guide the production of OMMP product and its system of medical dispensaries lack the controls the OLCC sees as necessary to secure a stable recreational program.

While there may be efficiencies gained by combining the systems, the OLCC recommendations support the idea that OMMP producers and dispensaries would have to meet all requirements of the recreational program, including a robust seed-to-sale system.

The OLCC is aware that legislation is being offered to improve aspects of the medical program. Without product tracking, the OLCC would not support co-locations of recreational and medical marijuana. It is the intent of the Commission that its licensed retail locations would only be able to sell marijuana products that are tracked through a seed-to-sale tracking system. This would result in no co-location or recreational licensing of existing medical dispensaries. In addition, the OLCC would not be in a position to license processors or wholesalers that work with medical product unless the medical product is tracked by the OLCC seed-to-sale system. The primary concern here is to ensure the integrity of the recreational product and system.

The OLCC would seek to encourage and license any product currently available in the medical system if growers seeking a recreational license agree to abide by the regulatory requirements for licensure within the recreational system and agree to use the OLCC seed-to-sale system.

There are several economic challenges to the success of a well-regulated commercial market for recreational marijuana. The continued independent status of the medical program is a market force that limits the ability of the recreational system in terms of sales and potential revenue production. In other words, at some level the systems will directly compete for customers.

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If the systems remain separate, the OLCC has reason to believe that the recreational system will begin with a potential of 20 percent market penetration of current Oregon marijuana consumption. The actual market will depend on a variety of factors, including prices, market expansion because it is legally available, dispensaries converting from medical facilities to recreational facilities and other factors. The recreational system will have to prove its superiority in terms of security, quality, convenience and price to overcome the illegal market, home grow provisions of Ballot Measure 91 and a medical system largely free of regulations and associated costs that will be present in the recreational system.

As our work continues, the Commission appreciates the open and transparent process that has provided us with the opportunity to make these recommendations and have them considered by the Legislature as we work together on the implementation of this new law.

The Commission is committed to continuing to make thoughtful contributions to the work of the Joint Legislative Committee on Measure 91 Implementation in a timely manner. We deeply appreciate the strong lines of communication the Chairs and committee have provided for the OLCC as we work together to create a successful program for the people of Oregon.

Respectfully,



Rob Patridge, Chairman

Oregon Liquor Control Commission

CC:

Joint Interim Committee on Measure 91 Implementation

Senate Vice-Chair, Senator Floyd Prozanski
House Vice-Chair, Representative Carl Wilson
Senator Jeff Kruse
Senator Lee Beyer
Senator Ted Ferrioli
Representative Peter Buckley
Representative Andy Olson
Representative Ken Helm

Senate Majority Leader Diane Rosenbaum
Senate Republican Leader Ted Ferrioli
House Majority Leader Val Hoyle
House Republican Leader Mike McLane

Members of the Legislature (via email)