2020 LEGISLATIVE SUMMARY

OLCC

Ranee Niedermeyer Director of Government Relations 4/8/2020

2020 Legislative Summary 2

Administration

SB 1556 Sale of Anonymized Commercial Data, Tribes and Airline Agreements 3
HB 4107 Prohibits Discrimination 4
HB 4149 Substance Use Disorders 4
HB 5204 Budget Reconciliation 5

Alcohol

HB 4006 Leasing Equipment 5
HB 4117 Home Delivery of Distilled Spirits 5
HB 4118 Cocktails in a Can 5
SB 1503 Driving Under the Influence 6
SB 1565 Distillery Tasting Room Compensation 6

Hemp, Medical and Recreational Marijuana

SB 1561 Hemp, Medical and Recreational Marijuana 6
HB 4034 OLCC Authority Medical Marijuana Grow Sites 7
HB 4035 Plan for Medical Marijuana Oversight 7
HB 4051 Oregon Hemp Commission 7
HB 4072 Oregon Hemp State Program 8
HB 4088 Social Equity in Cannabis Industry 8
HB 4156 Cannabis Business Certification Program 8
HB 4158 Oregon Hemp Plan, Hemp Tracking 9

Tobacco, Kratom, Vape

SB 1577 License Retail Sales of Tobacco 9
HB 4013 Kratom Regulation 9
HB 4078 Vape Regulation 10

2020 Legislative Session Summary

OVERVIEW

The 2020 legislative session began on Monday February 3 and was effectively adjourned on Thursday, March 6 when the Senate President and House Speaker announced that due to continual absences of a quorum that there would be no further floor sessions prior to the statutory end of session on Sunday, March 8. The Speaker and President scheduled a Legislative Emergency board for Monday, March 9, to approve an emergency funding package for coronavirus response and flood relief for the Umatilla Basin in Northeast Oregon. The Speaker and President requested the Governor to call a special session within the next 30 days to address urgent legislation completed over the last few weeks. The Governor indicated openness to calling a special session if legislative leaders bring a plan for a functioning session.

In total 283 measures were introduced, however, only three passed both the House and Senate prior to the legislative stalemate. No other bills made it through the legislative process. Options going forward for funding requests include submission to regularly scheduled emergency boards May 20-22, September 23-25 or December 8-10, or submission in the agency's legislative request budget, due August 1, 2020. Options going forward for policy requests include submission of agency legislative concepts to the Governor for the 2021 session or working with legislators on policy bills they intend to introduce.

The rapid development of Covid-19 has changed the legislative landscape. On March 11, the Governor issued the first of 12 executive orders, declaring an emergency due to coronavirus (Covid-19) outbreak in Oregon. Subsequent orders closed schools and businesses, ordered Oregonians to stay home, postponed non-urgent health care procedures, restricted hospital visits, and provided a temporary moratorium on residential evictions and termination of rental agreements and leases. The Governor appointed a Joint Special Committee on the Coronavirus Response which met on March 18, 20, 23, and 24th to identify actions to support economic relief and household stability for low-income workers, individuals and small businesses who are at risk of being significantly impacted by the COVID-19 pandemic. The committee was tasked to produce budget and policy recommendations for legislative action and to monitor Oregon's ongoing public health response. The Governor has since indicated that she plans to call a special session to address issues identified by the committee and provide funding once the state has sufficient clarity regarding the scope of aid from the federal stimulus package.

Given the magnitude of this crisis, it is likely that future policy and budget actions will focus on economic support for Oregon citizens and businesses. Given projections of reduced revenue, it is likely that agencies will be asked to carefully consider the impact and costs of their programs and make recommendations to cut budgets.

Legislation tracked by OLCC during the 2020 session can be organized into four categories: Administration; Alcohol; Hemp, Medical and Recreational Marijuana; and Tobacco, Kratom and Vape.

Administration

- SB 1556 – Sale of Anonymized Commercial Data, Tribes and Airline Agreements
- HB 4107 - Prohibits Discrimination
- HB 4149 – Substance Use Disorders
- HB 5204 – Budget Reconciliation

Alcohol

- HB 4006 – Leasing Equipment
- HB 4117 – Home Delivery of Distilled Spirits
- HB 4118 – Cocktails in a Can
- SB 1503 – Driving Under the Influence
- SB 1565 – Distillery Tasting Room Compensation

Hemp, Medical and Recreational Marijuana

- SB 1561 – Hemp, Medical and Recreational Marijuana
- HB 4034 – OLCC Authority Medical Marijuana Grow Sites
- HB 4035 – Plan for Medical Marijuana Oversight
- HB 4051 – Oregon Hemp Commission
- HB 4072 – Oregon Hemp State Program
- HB 4088 – Social Equity in Cannabis Industry
- HB 4156 – Cannabis Business Certification Program
- HB 4158 – Oregon Hemp Plan, Hemp Tracking

Tobacco, Kratom, Vape

- SB 1577 – License Retail Sales of Tobacco
- HB 4013 – Kratom Regulation
- HB 4078 – Vape Regulation

Funding for OLCC's request for a GIS position was in the budget reconciliation bill HB 5204 which passed out of Ways and Means was scheduled for a floor vote which did not happen due to a lack of quorum.

ADMINISTRATION

SB 1556 – Sale of Anonymized Commercial Data, Tribes and Airlines Agreements

Passed out of Ways and Means, needed Senate and House vote

Sponsored by Senator Johnson; Signatures Senators Boquist, Monnes Anderson, Riley

Authorizes OLCC to establish a program to generate revenue from sales of anonymized commercial data and analysis. Allows commission to contract for services related to creating marketing, selling or licensing use of data and analysis. Deems information produced as a result of capture or compilation is proprietary. Disposition of funds from sales related to cannabis data and analysis shall be credited to

the Marijuana Control and Regulation Fund. Disposition of funds from sales related to alcohol data and analysis shall be credited and distributed as provided under ORS 471.805. Authorizes commission to enter into agreement on distilled liquor prices with Indian tribes and commercial airlines. Effective on 91st day after sine die.

HB 4107 - Prohibits Discrimination

Passed House 45 ayes, 12 nays, 3 excused; needed Senate vote

Sponsored by Representative Bynum, Alonso Leon, Piluso, Senator Frederick, Manning Jr.; Signatures Representatives Barker, Clem, Doherty, Gomberg, Gorsek, Greenlick, Helm, Hernandez, Holvey, Keny-Guyer, Lawrence Spence, Lively, Marsh, McKeown, McLain, Meek, Mitchell, Nathanson, Neron, Nosse, Power, Prusak, Rayfield, Salinas, Sanchez, Schouten, Smith Warner, Sollman, Wilde, Williams, Witt, Senators Beyer, Dembrow, Gelser, Knopp, Prozanski, Roblan, Steiner Hayward, Taylor, Wagner

Prohibits discrimination in two ways: 1) Refusal to accept cash and 2) includes physical characteristics within definition of race

Refusal to accept cash:

Declares refusal to accept U.S. coins or currency by a place of public accommodation an unlawful practice. Allows refusal of currency in $50 or $100 denominations or coins that total $100 or more. Exempts farmers' markets and roadside stands, banks, aircraft, gas stations, and electric vehicle charging stations. Exempts insurance, securities, mortgage, and escrow transactions, and retail transactions occurring entirely by phone or mail. Exempts internet-based transactions, defined as sale, purchase, reservation, or deposit for goods or services to be picked up or delivered. Exempts purchases from vending machines unless vending machine is within group of eight or more machines that do not accept cash payment. Exempts hospitals or medical services if billing occurs after services are rendered, so long as the option to pay cash by mail or at a designated location is available. Exempts transactions for goods or services, including transient lodging and transportation, when transaction requires deposit of money or signing an agreement to rent or lease consumer goods. Exempts transactions occurring in a micro-market (unattended retail establishments without access to the general population offering food or beverage through automated payment process system). Exempts regional offices of the Department of Revenue. Makes cash discrimination provisions effective beginning July 1, 2021.

Includes physical characteristics within definition of race

Includes physical characteristics, such as hair type and style, within definition of race for purposes of school discrimination, school district participation in interscholastic activities, and unlawful employment practices. Requires interscholastic organization contracting with school districts to implement policies prohibiting discrimination based on race, color, or national origin. Prohibits school or employer dress code or policy from disproportionately impacting members of a protected class. Section 1 Effective July 1, 2021, Amendments in Section 1a and 6-10 Effective January 1, 2022

HB 4149 – Substance Use Disorders

Passed out of Ways and Means, needed House and Senate vote

Sponsored by Representative Sanchez; Signatures Representative Barker, Greenlick, Hernandez, Schouten

Directs the Alcohol and Drug Policy Commission (ADPC) to work with Oregon Health Authority (OHA) and Deputy Superintendent of Public Instruction to develop an early intervention strategy to address substance use among school-aged children and youths and to report the strategy to the Legislative Assembly by November 1, 2020. Defines "recovery supports", Requires development of an inventory of resources to prevent, treat and recover from substance use disorders. Adds participating agencies,

including OLCC, to meet quarterly with ADPC to review and report on each agency's progress on implementing comprehensive recovery plan, including reporting on process and outcome measures. Effective upon passage.

HB 5204 – Budget Reconciliation

Passed out of Ways and Means, needed House and Senate vote

Sponsored by Joint Committee on Ways and Means

Appropriates moneys from General Fund to Emergency Board for allocations during the biennium and to specified state agencies for biennial expenses. Appropriation included $162,694 for recreational marijuana to fund GIS position. Effective upon passage.

ALCOHOL

HB 4006 – Leasing Equipment

Passed House 58 ayes, 2 excused; Needed Senate vote

Sponsored by Representative Barker

Increases the time an alcohol manufacturer or wholesaler may lease or furnish equipment to an alcohol retailer from 10 to 14 days which provides additional time for setup and removal from the event site. Effective upon passage.

HB 4117 – Home Delivery of Distilled Spirits

In House Economic Development Committee

Sponsored by Representative Doherty; Signatures Representative Helm, Wilde

Allows home delivery of distilled spirits obtained from a retail sales agent. Must be in a factory sealed container and delivered to a final consumer. Requires alcohol service permit or completion of training by a third party provider, eligible business or retail sales agent that covers methods for inspecting government issued photo identification, recognizing signs of visible intoxication, and OLCC rules relating to alcohol delivery for all alcohol deliveries including beer, wine, cider and distilled spirits. Authorizes the commission to develop, implement and maintain an electronic system to facilitate final consumer ordering of distilled liquor from retail sales agent. The system must include, but need not be limited to, accessibility through the use of a third party provider digital platforms or marketplace. Third party providers must be registered with the Oregon Liquor Commission as adopted by rule. Third party providers may advertise alcoholic beverages for sale, accept orders, receive payment, and deploy delivery personnel. OLCC must approve the use of any third party provider. OLCC may assess civil penalties. Effective on January 1, 2021

HB 4118 – Cocktails in a Can

In House Economic Development Committee

Sponsored by Representative Gomberg

Allows licensee, permittee or certificate holder authorized to import, export, sell, distribute ship or deliver wine to import, export, sell, distribute, ship or deliver low-proof spirit beverages containing 14% or less by volume on the same terms. Factory-sealed containers may not exceed 375 milliliters in volume. Allows distribution or delivery of low-proof spirit beverages by distilleries. Allows distillery licensee to import, manufacture, offer tastings or make sales of low-proof spirit beverages. Imposes

privilege tax. Allows nonprofit or charitable organization to sell low-proof spirit beverage at an auction or raffle under the same terms as wine. Effective 91st day after sine die.

SB 1503 – Driving Under the Influence

Passed Senate 28 ayes, 2 excused, In House Rules Committee

Sponsored by Senator Courtney, Prozanski; Signature Senator Roblan

Provides that a person commits offense of driving under the influence of intoxicants if person has blood alcohol level of 0.08 percent or more by weight within two hours after driving vehicle. Effective on passage.

SB 1565 – Distillery Tasting Room Compensation

Passed out of Ways and Means, needed Senate and House vote

Sponsored by Senator Beyer, Manning Jr., Representative Nosse, Gomberg; Signatures Senators Burdick, Dembrow, Findley, Frederick, Gelser, Girod, Golden, Hansell, Heard, Johnson, Knopp, Linthicum, Monnes Anderson, Prozanski, Roblan, Steiner Hayward, Taylor, Wagner, Representatives Boshart Davis, Breese-Iverson, Evans, Fahey, Helt, Leif, Lively, Moore-Green, Nathanson, Wallan, Wilde, Wilson

Sets in statute increase in distillery tasting room compensation for sales in distillery retail outlets. Pays 45% commission of the retail price for the first $250,000 of annual total combined retail sales from all distillery retail outlet tasting locations operated by the distillery licensee and 17% for all other sales. Effective on January 1, 2021, Sunsets January 2, 2025.

HEMP, MEDICAL AND RECREATIONAL MARIJUANA

SB 1561 – Hemp, Medical and Recreational Marijuana

Passed out of Senate Judiciary, referred to Ways and Means

At the request of Senator Prozanski, Representative Helm

Directs the State Department of Agriculture to administer Oregon Hemp State Program for production, processing and sale of hemp. Directs rulemaking, sets standards of licensing and requires background checks on applicants. Other components of the bill include:

- Specifies that charges of unlawful delivery of marijuana and unlawful possession of marijuana originating from the same incident will merge into a single conviction
- Allows importation and exportation of hemp as allowed by statute or ODA rule
- Allows medical professionals able to prescribe controlled substances to certify patients as eligible for a medical marijuana card (includes physician, physician assistant, nurse practitioner, naturopathic physician, dentist)
- Requires Oregon Cannabis Commission (OCC) to collaborate with the Oregon Health Authority (OHA) and Oregon Liquor Control Commission (OLCC) on the administration of medical and recreational marijuana programs and to report biennially on the long-term strategic administration of the Oregon Medical Marijuana Program to interim committees of the Legislative Assembly on health and judiciary by September 2 of each odd numbered year.
- Requires OLCC to assess financial impact of the cannabis tracking system on licensees and make recommendations for improvements and costs savings to Legislative Assembly related to economic development not later than December 31, 2020.
- Directs OLCC to develop compliance education programs (safe harbor) for licensees and other entities regulated by the Commission. The rules adopted must:
    - Clarify that participation is voluntary

- Establish mitigation periods for certain violations
- Provide for the commission to offer recommendations on abatement of the violations

Effective on 91st day after sine die, Section 53 (safe harbor) effective January 01, 2021.

HB 4034 – OLCC Authority Medical Marijuana Grow Sites

In House Economic Development Committee

At the request of House Interim Committee on Economic Development for Representative John Lively

Tasks the OLCC with registering medical marijuana grow sites growing for more than two Medical Marijuana Registry cardholders and ensure that all registered sites utilize the Cannabis Tracking System. Gives OLCC authority o deny registration, sanction, suspend or revoke registrants. Effective January 01, 2021.

HB 4035 – Plan for Medical Marijuana Oversight

Passed House 55 ayes, 4 nays, 1 excused, In Senate General Government and Emergency Preparedness

At the request of House Interim Committee on Economic Development for Representative John Lively

Requires OLCC, Oregon Health Authority, Oregon Department of Agriculture, and Governor's office in consultation with the Oregon Cannabis Commission and regulated entities to jointly develop a plan by December 31, 2020, to streamline marijuana regulation in Oregon. At minimum the report shall include recommendations for the:

- The appropriate regulatory authority over the Oregon Medical Program
- The consolidation of administrative functions related to the regulation of marijuana
- Methods to reduce administrative costs while ensuring funding for continued maintenance and operations for marijuana systems and programs
- Establish a state marijuana reference laboratory
- Support social equity
- Identify changes to state law that would be necessary if the plan is implemented
- Assess the financial impact of the Cannabis Track System and make recommendations to improve the system and reduce costs
- Ensure the timely sharing of tax compliance data with cities, counties and the Commission
- The OLCC shall adopt rules to develop compliance education programs for licensees. The rules adopted must:
    - Clarify that participation in a compliance education program is voluntary
    - Establish mitigation periods for certain violations
    - Include that the Commission make offer recommendations on the abatement of violations prior to taking action

Effective on passage, Sunsets January 2, 2021.

HB 4051 – Oregon Hemp Commission

Passed House 49 ayes, 4 nays, 7 excused; Passed House 49 ayes, 4 nays, 7 excused, needed Senate vote

Sponsored by House Interim committee on Agriculture and Land Use for Oregon Industrial Hemp Farmers Association, Oregon State University

Creates seven member Oregon Hemp Commission. Directs the Department of Agriculture (ODA) to monitor implementation of the Oregon Hemp Commission's (OHC) goals and budget and promote cooperation between stakeholders. Requires ODA to review OHC plans and projects for promotion,

advertising, research, and information dissemination. Authorizes OHC to establish certain assessments, levies, and collections by rule. Effective on passage.

HB 4072 – Oregon Hemp State Program

Passed out of Ways and Means, needed House and Senate vote

Sponsored by Representative Witt, Wilson, Helm, Senators Hansell, Prozanski; Signatures Representatives Boshart Davis, Gomberg, Marsh, McLain, Post, Smith DB, Williams, Senators Findley, Frederick, Roblan (at the request of Oregon State University, Oregon Industrial Hemp farmers Association, Oregon Farm Bureau)

Directs Oregon Department of Agriculture to administer the Oregon Hemp State Program for studying growth, cultivation, and marketing of hemp. Requires ODA to adopt rules to implement the State Plan in accordance with the federal Agriculture Improvement Act of 2018 (P.L. 115-334) and subsequent federal law. Authorizes ODA to charge license and license renewal fees. Requires ODA to conduct criminal records check of applicants for licensure. Authorizes Oregon Health Authority, Oregon Liquor Control Commission, and ODA to take any action necessary to implement Act prior to the effective date. Requires ODA to establish requirements by rule for commercial hemp shipments. Effective on 91st day after sine die.

HB 4088 – Social Equity in Cannabis Industry

Passed out of House Economic Development, referred to Ways and Means

Sponsored by Representative Fahey; Signatures representatives Alonso, Leon, Helm, Hernandez, Keny-Guyer, Lively, Meek, Nosse, Reardon, Williams, Witt

Creates the Task force to Promote Social Equity in the Cannabis Industry consisting of 11 members, two legislative members and nine appointed by the Governor to represent stakeholders including OLCC, City of Portland's Cannabis Program, Oregon-based nonprofit focused on minority inclusion in the cannabis industry, business association focused on serving minority cannabis entrepreneurs, Oregon-based cannabis business association, three members who represent minority-owned licensed cannabis businesses and one member from a culturally specific community development organization in Oregon.

Establishes purposes of the task force:

- Identify barriers to starting and growing businesses in the legal cannabis industry for people of color, people with low income, and people with previous cannabis-related convictions
- Recommend additional community investments in areas disproportionately impacted by marijuana criminalization
- Recommend solutions including legislation in report to Legislative Assembly by November 1, 2020.

Effective on passage, sunsets December 31, 2020

HB 4156 – Cannabis Business Certification Program

Passed out of Economic Development, referred to Ways and Means ***Sponsors Representative Helm, Senator Prozanski; Signatures Representative Alonso Leon, Fahey, Gomberg, Hernandez, Holvey, Leif, Lively, Marsh, Meek, Nosse, Prusak, Smith DB, Wilde, Williams, Senator Dembrow, Frederick, Golden, Manning Jr., Riley***

Directs Oregon Department of Agriculture (ODA) to design and implement a cannabis business certification program to promote market-based approaches that create incentives for cannabis business operations to use low-carbon cultivation techniques that use energy and water efficiency. Allows ODA to contract with third party organization with expertise in the measurement of and identification of best practices. Directs OLCC to allocate $300,000 from the Marijuana Control and Regulation Fund for ODA for the program. Effective July 1, 2020.

HB 4158 – Oregon Hemp Plan, Hemp Tracking

In House Agriculture and Land Use committee

Sponsors Representative Wilson at the Request of Association of Oregon Counties

Directs Oregon Department of Agriculture to develop Oregon Hemp Plan for establishment of Oregon Hemp Program for commercial production and sale of hemp. The plan must include:

- Qualifications for receiving a license to grow or handle hemp
- Standards for suspending or revoking grower licenses or handlers
- Procedures for identifying land where hemp is produced
- Procedures for sampling and testing
- Procedures for disposing of identified marijuana plants
- Procedures for sampling and testing hemp for THC levels
- Processes for sharing information with state and federal agencies

Fingerprints may be required for applicants. Proof of legal access to water is required. Fees may be assessed. Requires OLCC to develop a system for electronic tracking of commercial cannabis shipments that leaves a premises and to maintain a hotline for law enforcement. Effective on passage.

TOBACCO, KRATOM, VAPE

SB 1577 – License Retail Sales of Tobacco

Passed out of Ways and Means, needed Senate and House vote

Sponsored by Senator Monnes Anderson, Roblan, Representative Helt; Signatures Senators Frederick, Manning Jr., Steiner Hayward, Taylor

Prohibits retail sale of tobacco products or inhalant delivery systems unless premises is licensed by Department of Revenue (DOR). Allows seizure of contraband tobacco by DOR or law enforcement agencies. Increases amount of civil penalties. Requires inspections one time a year. Allows local public health authorities with current retail standards to enforce those standards and apply fees. Effective on 91st day after sine die.

HB 4013 – Kratom Regulation

Passed House 59 ayes, 1 excused; Needed Senate vote

Sponsored by Representative Post, Barker; Signatures Representative Prusack

Directs the Governor's Office, Oregon Health Authority (OHA), Oregon Liquor Control Commission (OLCC), and Oregon Department of Agriculture to develop a plan for the future regulation of kratom in collaboration with the kratom industry. Requires report on plan to Legislative Assembly by December 31, 2020. Makes the distribution, sale or attempted sale of kratom-containing product to individual under 21 a Class C misdemeanor (maximum of 30 days imprisonment, $1,250 fine, or both).

Kratom is a tree in the coffee family native to Southeast Asia. Kratom leaves are typically chewed, brewed or crushed into a powder and sold as pills, capsules, teas or extracts. Consumption produces stimulant effects in low doses and sedative effects in high doses. It is used recreationally, to treat pain and for opioid cessation although there are few scientific studies on its use or effectiveness. The USDA warned consumers in September 2019 not to use kratom as it appears to expose users to risks of addiction. It is currently not regulated at the federal level; however, Alabama, Arkansas, Indiana, Rhode

Island, Tennessee, Vermont, and Wisconsin have bans on production and sale of kratom-containing products. Effective on passage.

HB 4078 – Vape Regulation

Passed House 41 ayes, 18 nays, 1 excused, Needed Senate vote

Sponsored by Representative Marsh, Nosse, Senator Taylor, Monnes Anderson; Signatures Representative Alonso Leon, Clem, Keny-Guyer, Lively, Meek, Mitchell, Power, Prusak, Reardon, Salinas, Sanchez, Schouten, Wilde, Williams

A retailer may not sell cigarettes, inhalant delivery systems or smokeless tobacco products unless the retailer makes the sale to the purchaser in person as part of a face-to-face exchange. Purchases by mail, online, telephone, computer, or other electronic network are prohibited. This does not apply to marijuana products or products approved by the Food and Drug Administration as a tobacco cessation or other therapeutic product if it is sold solely for that purpose. Effective on passage.