

Oregon Marijuana Regulation



Office of Oregon Governor Kate Brown

Jeff Rhoades – Senior Policy Advisor

Agency Breakout – Who Regulates What?

- **Oregon Liquor Control Commission (OLCC):**
 - Oregon's Recreational Marijuana Program:
 - Licensure and enforcement;
 - Tracking of product;
 - Rulemaking;
 - Lab licensure.
 - Oregon's Medical Marijuana Program (crossover areas):
 - Lab licensure;
 - Bump-up canopy;
 - AFTER SENATE BILL 1057: Tracking of medical marijuana products.



Agency Breakout – Who Regulates What?

- **Oregon Health Authority (OHA):**

- Oregon Medical Marijuana Program (OMMP):

- Grower registration;
 - Patient cardholder program;
 - Enforcement / Compliance;
 - Rulemaking.

- Testing Lab Accreditation:

- ORELAP – required by statute;
 - TNI national standard;
 - Protection of the public taking cost into account (also required by statute.)

Agency Breakout – Who Regulates What?

- **Oregon Department of Agriculture:**
 - Industrial Hemp – testing and regulation;
 - Food Safety Program – licensing of kitchens (edible products;)
 - Pesticides regulation and investigations;
 - Weights and measures (scales to weigh products.)
- **Department of Revenue:**
 - Collection of taxes;
 - Distributions.
- Treasury;
- Oregon Water Resources Department;
- Local Jurisdictions:
 - Additional layers of regulation & issuing Land Use Compatibility Statements (LUCS) to interface with state licensure.



Raising Revenue for Oregon

- Measure 91 taxation scheme changed by the Oregon Legislature;
- 25% tax on “early start” sales;
- Starting Jan 1, 2017:
 - 17% excise tax on product;
 - The “local option” – up to 3%.
- Tax Distribution Formula:
 - 40% to the Common School Fund;
 - 20% to the Mental Health Alcoholism and Drug Services Account;
 - 15% to the State Police Account;
 - 10% to cities;
 - 10% to local law enforcement;
 - 5% to OHA for alcohol and drug abuse prevention, early intervention and treatment services.

60.2 million in
revenue

Distribution after OLCC repaid for costs associated with implementation

Creating Oregon Jobs

OLCC has issued 12,394 marijuana worker permits

- These numbers do not include jobs created by the OMMP;
- Jobs are created in rural areas lacking in timber revenue;
- New jobs where behavior was previously criminalized;
- According to recent economic analysis by industry experts, assuming an average wage of \$12.13/hour, the total annual wages associated with cannabis jobs total roughly \$315 million.

Maintaining Cole Compliance

First Four Tenets

Preventing distribution of marijuana to minors

Preventing revenue from going to criminal enterprise, 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

Ensuring Compliance

Security and ID for retail, "Stay True to You" campaign & increased paraphernalia penalties

OLCC grower / processor security requirements

Tracking of recreational product (soon OMMP)

Licensure & Training (handler, grower, processor)

New laws increasing regulation & enforcement

Maintaining Cole Compliance

Last Four Tenets

Preventing violence and use of firearms

Preventing drugged driving and exacerbation of other public health consequences

Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed

Preventing marijuana use or possession while on federal property

Ensuring Compliance

Increased available criminal penalties and OLCC enforcement capability

Testing of products, recall efforts, pesticides investigations, DRE training and ongoing discussions on drugged driving

Partnership with local law enforcement, flyovers, Environmental Best Practices Task Force, water rights concerns, MCAP program

Interagency agreement and coordination of policy (state employee house issue)

New laws increasing regulation & enforcement

Maintaining Cole Compliance

- **Cannabis Product Tracking:**

- Seed-to-sale tracking of recreational product since January 1, 2017:
 - RFID tags;
 - Product tracked on inventory based system with instant access to data;
 - How does this differ from existing program?
 - Allows for meaningful enforcement;
 - Compliance issues can be addressed in “real time.”
- **SB 1057**- Medical MJ will now be tracked utilizing the same CTS with OLCC as the regulating authority on tracking of product;
- **SB 302** – Increased import /export penalties and re-worked statute.

Maintaining Cole Compliance

- Security requirements (OAR 845-025-1400):
 - Full security plan must be filed with and approved by OLCC:
 - Floor plan;
 - Commercial grade door locks;
 - Backup electronic records;
 - Alarm systems;
 - Helps identify potential diversion points.
 - Camera requirements allow OLCC to cross check against tracking:
 - Cover all areas with access to product;
 - 15 feet buffer outside of premises;
 - 24 hours / day recording.
 - Lighting and security requirements assist with the theft of product.

Testing of Cannabis Products in Oregon

- As of October 1st, 2016, all cannabis products must be tested by a licensed and accredited lab:
 - ORELAP –
 - Program accrediting to a national standard;
 - Problems with labs prior to accreditation.
 - Testing for potency, solvents, microbiological contaminants, water activity / moisture content and pesticides (more to come);
 - Addresses *Cole Memo* tenant (preventing public health consequences from marijuana use);
 - Pesticides pose significant regulatory challenges:
 - Expensive;
 - Lack of EPA Guidance;
 - Research;
 - Medical vs. recreational testing differences.

Testing of Cannabis Products in Oregon

- Balancing public safety and expense of testing:
 - More testing means a cleaner product;
 - At a certain point testing is too great a barrier to entry in the marketplace;
 - Pesticide testing is expensive and difficult;
 - More expensive testing can favor larger businesses.
- What does the future hold?
 - Working with regulators, industry and the labs to adjust rules to real world application;
 - A new, start up market means we need to be nimble;
 - New rules being released – but too much means market disruption and possible diversion.

Diversion Concerns

- Oregon State Police “Baseline Evaluation” Report:
 - The draft report does not address Oregon’s market after OLCC;
 - The document released to the press was not a final product;
 - Data in draft report is misleading:
 - Wide ranges in the data (e.g. 4.7 -9.4 billion production surplus;)
 - Relies on sources such as *The Oregonian*, *The Portland Tribune*, “The Weed Blog” and *High Times*.
- Major assumptions made in the draft report. Data conclusions are heavily extrapolated.

Diversion Concerns

State regulators recognize that it will take time to fully eliminate the black market. Current regulatory challenges parallel the end of prohibition in the 1930s.

- Diversion, however, has been a problem for Oregon:
 - Overproduction;
 - No appropriate tracking mechanisms prior to CTS;
 - Lack of law enforcement in heavy production areas.

How have we addressed this?

2017 Legislation – Current Session

- **Senate Bill 1057 – Supported by Governor Brown;**
 - **Tracks all medical marijuana through CTS;**
 - Gives additional enforcement authority for OLCC to prevent diversion of product;
 - Creates incentives to move into OLCC market;
 - **New Plant Limitations:**
 - **10 per household** (may change with HB 2198;)
 - **Limits on immature plants** (double mature plants.)
 - Includes funding provisions for additional enforcement agents with OLCC (pre-tax MJ \$)
 - Identification of potential diversion points;
 - New information sharing provisions with OHA;
 - Allows OLCC to inspect for the purposes of tracking product.
 - Makes various technical changes.

Passed both chambers, will be signed.

2017 Legislation – Current Session

- **Senate Bill 302** – Increases penalties for certain MJ crimes:
 - Arson incident to manufacture of cannabis extract I - new class A felony;
 - Arson incident to manufacture of cannabis extract II – new class C felony;
 - Causing another to ingest marijuana – new Class B felony (CS 8) w/ Class A enhancement (CS 9);
 - Intentionally administering marijuana item to body of person under 18 – new Class A felony (CS 9);
 - Unlawful Import / Export of Marijuana – major adjustments made, including super possession enhancements.

All included in major Oregon CSA rewrite

Other Federal Questions

- No pesticide guidance from EPA;
- Hemp guidance and cultivation:
 - Oregon is building hemp into regulated system to work with existing guidance (SB 1015)
- Banking problems:
 - All cash businesses create public safety concerns;
 - Banking for cannabis businesses;
 - New legislation from Oregon delegation.
- Uncertainty with a new administration.

Interstate Coordination

- Frequent calls and meetings with other jurisdictions are occurring:
 - Monthly phone calls;
 - Working with the Secretariat;
 - Conferences for regulating agencies.
- 29 states with medical marijuana;
- Recreational legal: Oregon, Colorado, Alaska, Washington, California, Nevada, Maine, Massachusetts, DC;
- Canada undergoing legalization effort (July 2018 target date.)

QUESTIONS?

Jeff Rhoades

Sr. Policy Advisor to Governor Kate Brown

(503) 378 – 6335

jeffrey.rhoades@oregon.gov

