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# A City Club Report on Measure 91: Marijuana Legalization

Published in the City Club of Portland Bulletin, Vol. 97, No. 5, Aug 4, 2014



In November 2012, Washington and Colorado legalized recreational marijuana use. If Oregon voters approve Ballot Measure 91 this November, Oregon will become the third state to legalize marijuana for recreational use, and will be using its own new and experimental regulatory system. Your committee was charged with reviewing the Measure, researching potential benefits and risks, and recommending whether the Measure should be adopted.

# **Majority Summary**

The majority of your committee concluded that the Measure is well-written, comprehensive and could be implemented successfully. The Measure takes advantage of current state agency infrastructure and provides workable methods for the licensing, taxation, and regulation of recreational marijuana.

The majority finds that current marijuana laws unnecessarily limit adult Oregonians' freedom to consume a product that is less addictive than legal products such as alcohol and tobacco. Furthermore, by legalizing recreational marijuana Oregon can encourage other states and the nation to adopt similar changes.

The majority concludes that the social costs of the current system are too high. Crime can be reduced through regulated legalization, consumption can be discouraged through education and advertising, economic opportunity will increase through added revenue and job growth, and the Measure can provide a national model for effectively regulating the recreational and medical marijuana industries.

Recommendation: The majority recommends a yes vote.

(Minority Summary on Reverse)

# **Minority Summary**

There are significant uncertainties regarding conflicts with federal law, and the Measure fails to sufficiently address the problems it purports to solve. While adopting the proposal will expand the volume of marijuana grown and distributed, it will not curtail the black market. The proposed tax structure will provide an unreliable and possibly inadequate revenue stream. An unlimited number of licenses can be issued and key employees are not subject to scrutiny and restriction. The initiative appears driven not by a legitimate urgency to remedy flaws in the legal system, but rather an opportunistic attempt to take advantage of shifts in the political winds of public opinion.

#### Recommendation: The majority recommends a no vote.

City Club members will vote on this report between Wednesday, August 20, 2014 and Monday, August 25, 2014. Until the membership votes, City Club of Portland does not have an official position on this report. The outcome of the vote will be reported in the City Club of Portland Bulletin Vol. 97, No. 6 dated August 26, 2014, and online at pdxcityclub.org.

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#### Introduction

The title to Measure 91 will appear on the ballot as follows:

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

**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 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<sup>i</sup>

# **Background**

Your committee read research reports related to marijuana use and conducted interviews with law enforcement, advocacy groups, policy makers, agency directors, doctors, and lawyers. No witness claimed the current Oregon system is effective at achieving its goal of limiting marijuana use to legitimate medical purposes.

# **Regulation and Implementation**

The measure grants the Oregon Liquor Control Commission (OLCC) "all powers necessary and proper to enable it to carry out fully and effectually all the purposes" of the Measure. Specific grants of authority include: recommending changes in law to the Legislature; regulating advertising, issuing licenses for production, processing, wholesaling and retailing marijuana; and limiting how much marijuana any one individual may purchase. While the Measure does not authorize a statewide cap on retail licenses, the OLCC may refuse to issue a license if "there are sufficient licensed premises in the locality set out in the application, or … the granting of a license in the locality . . . is not demanded by public interest or convenience." The OLCC may regulate advertising and prohibit licensees from selling items deemed

"deceptively labeled or branded as to content," or that contain "injurious or adulterated ingredients." Licensees may lose their license if they have "misrepresented to a customer or the public any marijuana items sold by the licensee."

Cities and counties may adopt "reasonable time, place, and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers" by making "specific findings that the establishment would cause adverse effects." Cities and counties may, by local ballot measure, opt out entirely from allowing licensed production, processing, wholesaling, and retailing marijuana within the local jurisdiction. However, they may not prohibit personal cultivation or "prevent any person residing in the county or city from having, for personal use, marijuana items purchased from marijuana retailers duly licensed." Local jurisdictions opting out will not receive tax revenues generated by marijuana.

# Proponents' and Opponents' Assertions Major Assertions Made in Favor of the Measure

- Increases revenue for the state from the taxation of marijuana sales
- Increases economic activity and jobs from new industry
- Decreases cost to society resulting from reduced access to employment, housing, student loans, and other necessities for those convicted of a victimless crime
- Increases individual freedom
- Creates regulatory framework that can provide future direction for the medical marijuana system
- Provides opportunity to positively impact the national movement to legalize marijuana
- Redirects police resources to fight more serious crime
- Potential to decrease youth consumption over time with educational campaign and treatment.
   Measure allocates revenue for both

# **Major Assertions Made Against the Measure**

- Increases consumption of marijuana, particularly among youth
- Increased adult consumption will increase costs to society due to lost worker productivity, worse public health outcomes, and an increase in motor vehicle accidents
- Increased youth consumption will affect developing brains, reducing educational achievement
- Lack of limits on who may work within the marijuana industry increases the risk of crime
- Federal law prohibits access to banking by marijuana businesses, leading to cash-only businesses that increase risks of corruption and crime
- Estimated revenue stream is unpredictable
- Lack of sufficient data from other states makes it difficult to know the true impact of legalization
- No urgency to pass the law now; rather it would be better to establish thresholds for intoxication and potencies of edibles first
- Will have little to no impact on black market

# **Majority Discussion & Analysis**

The majority finds the Measure provides ample authority to the OLCC and to local jurisdictions and, since the Measure is statutory (not constitutional), the Legislature may modify any of its provisions.

## Federal Law, Personal Freedom and Urgency

Legalization of recreational marijuana is an experiment. Implementation of the regulatory framework in Colorado and Washington is in its infancy and, like medical marijuana in Oregon and other states, legalization is in violation of the federal Controlled Substances Act. However, in August 2013, the United States Department of Justice issued to United States Attorneys a document known as the Cole Memo to outline enforcement priorities for marijuana "as a guide to the exercise of investigative and prosecutorial discretion." In effect, people in states that have legalized marijuana for medical or other uses are unlikely to be subjected to federal prosecution so long as they comply with robust state systems that:

address [federal] priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for.<sup>9</sup>

The drafters of the Measure testified to your committee that they were careful to design a system that meets the priorities of the Cole Memo.

Furthermore, your committee's majority finds current marijuana laws unnecessarily limit adult Oregonians' freedom to consume a product that is less addictive than legal products such as alcohol and tobacco.<sup>10</sup> Our state Constitution's strong protections for civil liberties demonstrate a commitment to personal freedom. Such a commitment places a part of the burden on opponents of the Measure to demonstrate the dangers of marijuana legalization, rather than putting the entire burden for changing the system on the proponents.

Your committee's minority argues that there is a lack of urgency and that there are weaknesses in the Measure that support waiting to learn more from the experiences of Colorado and Washington before joining them. However, the majority finds the status quo is unacceptable; the likely benefits of marijuana legalization outweigh the likely costs; the Measure is reasonably well crafted and it can be adjusted by the Legislature as needed at any time.

#### **Social Costs**

Witnesses told your committee that, if legalization of marijuana increases consumption, the potential social costs may include lost worker productivity, decreased educational achievement, and increased motor vehicle crashes. Your committee majority recognizes that these are real risks, but does not believe these risks outweigh the known costs associated with the current criminal process in Oregon. The FBI's Uniform Crime Reporting Program shows that in 2010 there were nearly 10,000 combined marijuana-related citations and arrests in Oregon (55% of all drug-related citations and arrests) and

Oregon spent over \$50,000,000 enforcing marijuana possession laws. <sup>11</sup> The marijuana-related numbers for 2012 were even higher, with 10,054 people cited and 2,754 arrested, for a total of 12,808. <sup>12</sup>

Furthermore, current marijuana laws also create significant social costs. Those who have marijuana-related citations or arrests on their records face stiff challenges securing housing, financial aid, and employment. Even a minor violation such as possession of less than one ounce of marijuana carries a presumptive \$650 fine, <sup>13</sup> an amount that many Oregonians would struggle to pay. These penalties are most likely to fall on communities of color and impoverished sections of the population. Although whites made up roughly 84% of the Oregon population in 2010, and blacks made up less than 2%, <sup>14</sup> blacks were 2.1 times more likely than whites to be cited or arrested for marijuana possession, even though usage rates were roughly the same between the two groups. While this is admittedly lower than the national average of a 3.7 to 1 ratio, <sup>15</sup> your committee does not feel this is a victory worth celebrating.

Your majority believes that legalization will lower the hard costs (police, courts, incarceration) of enforcing existing marijuana laws, thereby freeing up resources to crack down on more dangerous offenders, and will also reduce the social costs that inordinately affect traditionally marginalized communities. Furthermore, passage of the Measure has the potential to reduce social costs beyond Oregon's borders by spurring action in other states, and at the national level, to legalize marijuana use or relax penalties for it.<sup>16</sup>

#### **Crime**

Your committee heard conflicting predictions as to whether the Measure would decrease or increase crime.

Proponents of the Measure argue that crime will be reduced along with the black market for marijuana.<sup>17</sup> Proponents also argue that the Measure will provide tax revenues to cover the expense of regulation, as well as new funds for the law enforcement budgets of cities, counties, and the state, while shifting focus to crimes that are more serious.<sup>18</sup>

On the other side, law enforcement officials pointed out that the Measure provides for screening of licensees, but not for background checks of key employees. Though the proposed taxes are relatively low, incentives remain in place for untaxed black market sales within the state. Out-of-state demand provides substantial incentives for illegal export of premium products for high profits. Moreover, since recreational marijuana is still illegal under federal law, banking services are largely unavailable to marijuana businesses. While there are some exceptions, this lack of banking assistance has forced many marijuana businesses to operate as cash-only establishments, creating targets for lucrative robberies

and opportunities for money laundering.<sup>20 i</sup>

So, will crime increase or decrease with the legalization of recreational marijuana? Experience with medical marijuana may help to answer this question. A 2014 study evaluated the impact of medical marijuana legalization on crime in 11 states, comparing crime rates in those states that had legalized marijuana to similar states that had not. The study found no evidence of increased crime in states that had legalized medical marijuana, and a potentially significant reduction in homicide and assault rates.<sup>21</sup>

The United States' experience with the prohibition of alcohol may also be instructive. Historians and criminologists broadly agree that alcohol prohibition increased property crime and violent battles for control of the black market.<sup>22</sup> For example, the homicide rate increased to 10 per 100,000 population during the 1920s, a 78 percent increase over the pre-Prohibition period. Notably, prohibition's repeal in 1933 led to a "dramatic reversal in the rates for robbery, burglary, murder, and assault." <sup>23</sup>

Colorado's recent experience is also encouraging, with a reduction in burglaries and robberies at dispensaries since recreational sales began. In Denver, the center of Colorado's marijuana industry, violent crime is down 3% and property crime 11.3% for an overall crime rate reduction of 10 percent in the first six months of 2014 compared to the same period in 2013.<sup>24</sup> Colorado Gov. John Hickenlooper stated in a recent interview:

It seems like the people that were smoking before are mainly the people that are smoking now. If that's the case, what that means is that we're not going to have more drugged driving, or driving while high. We're not going to have some of those problems. But we are going to have a system where we're actually regulating and taxing something ... and we're not supporting a corrupt system of gangsters.<sup>25</sup>

Every industry provides opportunities for corruption and crime, and eliminating incentives for breaking the law is impractical. However, your committee majority believes that having enforceable laws will make it easier to punish those who break them.

As of publication, only 105 financial institutions find these assurances sufficient to risk serving businesses that are illegal under federal law. Without bank accounts, many marijuana businesses pay millions of dollars in cash to meet expenses, including payrolls and federal and state taxes. (See: buswk.co/1kC0YQx)

<sup>&</sup>lt;sup>1</sup> To enhance "the availability of financial services for, and the financial transparency of, marijuana-related businesses," the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) and the Department of Justice followed up on the Cole Memo by issuing coordinated memos in February 2014. FinCEN detailed the responsibilities of financial institutions for marijuana-related customer due diligence and reporting to FinCEN. The Justice Department memo provides guidance to U.S. Attorneys making it unlikely that financial institutions will be prosecuted for responsibly serving marijuana businesses that are in compliance with state law. (See: <a href="https://linearchy.com/linear

# Consumption

One of the biggest unknowns associated with the Measure is its impact on marijuana consumption.

Experts estimate that Oregon has among the highest rates of marijuana consumption in the country.<sup>26</sup> Oregon is currently ranked sixth in the nation for teen marijuana consumption, with nearly one in ten youth aged 12-17 reporting marijuana use in the last month.<sup>27</sup>

Opponents of legalization argued the Measure will increase youth consumption as a result of increased access, lower prices, reduction of legal risk, increased availability of edible forms of marijuana, and advertising equivalents of Joe Camel that target youth.<sup>28</sup> A survey asking teens whether they would try marijuana if it were legal indicated that youth use could temporarily increase by 5%.<sup>29</sup>

However, marijuana is already so easy for youth to obtain that a significant spike in youth consumption is unlikely.<sup>30</sup> The primary protective factors are education, punishment, and the availability of addiction treatment for those seeking it.<sup>31</sup> The Measure will not change current prohibitions for youth, and new tax revenues can be used for education on the dangers of marijuana to youth, and treatment for addiction.

In support of this argument, proponents compared marijuana regulation to tobacco regulation. In June of 2014, youth cigarette use in the United States was at an all-time low, <sup>32</sup> as a result of increased taxes and education efforts.<sup>33</sup>

Additionally, marijuana legalization has not increased consumption in Colorado. The percentage of Coloradans reporting past-month and past-year consumption rose between 2002 and 2010, mirroring a national trend. After 2010, consumption fell despite the introduction of medical marijuana during that period.<sup>34</sup>

Based on this information, your committee majority believes the Measure will not significantly affect overall consumption, and youth consumption has the potential to decline over time with education campaigns and treatment, both of which would receive funds under the Measure's tax allocation structure.

# **Economic and Tax Analysis**

Advocates of legalization point to the economic benefits of jobs for producers, including marijuana cultivation, transportation, wholesale, and retail. While not all of these jobs will be new, bringing existing jobs into the legal marketplace decriminalizes them and makes them subject to laws regarding workplace safety, Social Security, income tax withholding, and legal protections for workers.

Additionally, there is the potential for new revenue. New state revenue from taxing marijuana producers will first reimburse the OLCC for the cost of enforcing the Measure. Of the remaining revenue, 40% will go to Oregon's Common School Fund, 20% to mental health treatment related to alcohol and drug abuse, 5% to the Oregon Health Authority for drug abuse prevention, 15% to the State Police, 10% to cities for law enforcement, and 10% to counties for law enforcement.

Two estimates of potential state revenue from legalization were available at the time of publication. The Legislative Revenue Office (LRO) has estimated gross revenue of \$46.6 million in the July 1, 2017-June 30, 2019 biennial budget, with \$41 million available for distribution after deducting estimated OLCC costs. (That estimate was yet to be reviewed by a state committee which determines the official estimate to be published in the ballot.)<sup>35</sup> Under a contract with the Measure's sponsors, ECONorthwest estimated gross revenue of \$78.7 million during the 2017-2019 biennium.<sup>36</sup>

A variety of factors contribute to these estimates, including but not limited to changes in the rate of recreational marijuana use, the percentage of medical marijuana users who opt to leave the medical marijuana system, loss of revenue from tax evasion and fraud, and a potential decrease in revenue from alcohol and tobacco sales.

The challenges of analyzing a market that experts refer to as "hidden" are myriad, but there is cause for optimism. The state economist who prepared the lower LRO estimate said, "[I]n the long term, you would expect marijuana to bring in a higher amount of revenue."<sup>37 38</sup>

Some witnesses felt that, even though the tax set by the Measure was low, black market and medical marijuana would remain cheaper and untaxed, limiting potential revenue and economic benefits.<sup>39</sup> However, based on the aforementioned projections, your committee majority believes the net economic impact of legalization is likely to be positive.

At a time when many of Oregon's schools are overcrowded and some rural communities are turning to community policing for lack of available law enforcement funds, this potential revenue could be used to help pay for vital public services. Your committee majority feels this is a strong argument in favor of legalization.

#### Medical Marijuana

The Measure makes no changes to Oregon's existing statute authorizing the medical use of marijuana. The approximately 60,000 patients<sup>40</sup> with current Oregon medical marijuana cards can continue to use them and new patients can apply. Problems with the existing system include lax rules regarding medical need, neighborhood zoning conflicts with dispensaries, and failure to collect taxes.<sup>41</sup> The committee's majority believes the system established by the Measure, and regulations generated by the OLCC, will establish a regulatory framework that could be adapted to meet the challenges posed by the medical marijuana system. As happened in Colorado after recreational marijuana stores became legal, Oregon may see some of its current medical marijuana dispensaries voluntarily switch to become recreational marijuana retailers, bringing them under the measure's regulatory structure.

# **Majority Conclusions**

• Measure 91 is a well-written ballot initiative that takes advantage of current state agency infrastructure and provides a detailed method for licensing, taxation, and regulation.

- Legalization will bring in additional revenue for crucial public services such as public safety, public health, and education.
- The Measure and the OLCC will provide a regulatory framework that can provide a model for the medical marijuana system, which experts believe has significant flaws.
- Legitimate marijuana-related concerns over social equity and criminal justice will be addressed with legalization.
- Oregon has an opportunity to positively impact the national political push to legalize marijuana.
- Oregonians will have increased personal freedom.
- The legalization of recreational marijuana will pose many challenges in the beginning, but over time
  will be better than the status quo, increasing revenue for state and local government and reducing
  criminal activity.

## **Majority Recommendation**

The majority of your committee recommends a yes vote.

# **Signatures**

Respectfully submitted,

Beth van Elswyk

Glenn Fee

Matthew Keenen

Mario Parker-Mulligan

Jonathan Poisner

Rick York

Ari Wubbold, Vice-Chair

# **Minority Discussion & Analysis**

It would be easy to be swept up in the sense of inevitability that permeates the discussion of marijuana legalization and join in the majority report that recognizes the thoughtful effort by the sponsors of the Measure. The minority of your committee agrees that legalization may provide educational resources to eventually reduce youth marijuana usage. The implementation schedule also leaves more time for the legislature to close loopholes and add clarity than the other initiative petitions we reviewed (which did not make the ballot). But the fact remains that Oregonians would be instituting a huge culture shift that expends significant resources to implement a regulatory system and revenue stream that the federal government could make obsolete at a moment's notice.

Longtime Oregonians who recall another citizen initiative that enshrined legalized gambling in both our constitution and statutes via the Lottery would do well to reflect on the unique security concerns of morphing an illegal industry into a legitimate and highly regulated one, and the resulting pressures of balancing state revenue production with social costs.

#### Lack of urgency

Oregonians rightly pride themselves on pioneering changes in the law for the environment and the right to die with dignity in the face of federal law. Your minority does not believe this issue rises to the same level of concern, given that Oregon decriminalized marijuana possession in the 1970s and already has medical marijuana available (unlike Washington prior to its legalization of marijuana). While many are rightly concerned about the disproportionate effect of the current federal classification of marijuana offenses on minorities, even the ACLU, a supporter of the Measure, admits that the problem is more national than local. The minority of your committee agrees that people have a fundamental right to be free from unwarranted police harassment, but the solution to reducing the disproportionate impact of marijuana arrests on minorities should be to stop racial profiling, period, not imagine that legalizing marijuana will end that practice. Or if the end goal is to get marijuana off the federal list of Schedule 1 drugs (those subject to the highest criminal penalties), proponents should work on that rather than expecting that the experiment in full legalization will force the federal government to reduce the classification. At the same time, the numerous issues being faced in Washington and Colorado – from establishing standards for DUIs, potencies for marijuana edibles and oils, advertising, and security for these all-cash businesses –should sound a cautionary alarm.

#### Limitless licenses

The measure would allow for an unlimited number of available licenses. This could hinder the OLCC's ability to reject licenses in response to legitimate neighborhood concerns regarding concentrations of retail (or medical) marijuana outlets. As many neighborhoods have found, even with time, place and manner restrictions, the OLCC may be hard pressed to deny licenses without specific findings that there are "sufficient licensed premises in the locality" or that it is "not demanded by public interest or convenience."

#### **Limiting tax structure**

To eliminate the black market, proponents have set a low tax so as not to force uncompetitive prices in the "legitimate" market. The Measure places a "ceiling" on tax increases, directing the OLCC to raise them by 25 percent of any Consumer Price Index increase and to recommend any other tax rate adjustments to the legislature <sup>43</sup>. Thus the tax cannot keep up with inflation absent legislative action. As Oregon has seen with the three percent cap on property tax increases, however, this may not allow government sufficient flexibility to fund its programs in the future. And relying on the legislature to change those tax limitations does not sufficiently take into account the high hurdle of achieving a three-fifths vote of each legislative chamber to increase taxes.

#### Unreliability and possible inadequacy of revenue stream

Advocates trumpet grand projections of new revenue, and although the proponents have done a commendable job of allocating revenue both to the agency responsible for administrative oversight and to local law enforcement. However, a shift in the presidency and federal policy could completely—and immediately—eliminate this revenue source simply by withdrawing the Cole Memo. This is the nature of an executive order. Further, leaving Oregon's medical marijuana system in place, while ensuring its continuation in the event of a federal policy shift, creates competition between the untaxed medical marijuana market and the taxed retail market. As noted above, the lack of a cap on licenses could also impact the resources required by the state to hire staff to efficiently and effectively process applications, thereby reducing transfers to the Measure's designated fund recipients.

#### Lack of regulations and screening mandates for key employees of licensees

In the proposed statutes, only the licensees themselves can be rejected for excessive use of alcohol or other controlled substances, making false statements to the OLCC, or being convicted of a violation of law.<sup>37</sup> Nothing prevents abusers of alcohol and drugs, or convicts, from being involved in running retail outlets, resulting in a significant risk of involvement by criminal elements in licensed establishments. If the goal is truly to eliminate a black market, provisions for scrutiny of key employees should be made (similar to Lottery regulations).

#### Inability to curtail the black market.

Few dispute that exports of Oregon marijuana to the black market outside the state will likely continue to be more lucrative than sales in state. Given Oregon's notoriously high-quality marijuana, law enforcement experts expect that the black market profit margins will remain so far above that of legally taxed marijuana that many growers will remain in the black market. And even licensed growers may be incentivized to sell "excess" product into the black market, violating the Cole Memo restrictions on exports.

In the world of initiative petitions, there are few—if any—perfect laws. The proponents of the Measure have made significant efforts to draft a good law and have largely succeeded. And our state agencies appear well prepared to implement the law if the initiative passes. But with our demographically and politically similar neighbor to the north already implementing a very similar regulatory scheme, and given the concerns that have arisen out of Colorado regarding potencies and traffic incidents<sup>44</sup> 45 46, it seems more prudent to have the Legislature take more deliberative action in the 2015 session to craft an even better law than the Measure's proponents have managed to put forth. Refraining from diving into the breach will enable us to address real, serious problems with related legal issues—from resolving banking law questions that could increase safety for marijuana businesses, to determining how lawyers ethically advise clients participating in a federally illegal activity. In making such a huge regulatory shift, we should remember that discretion is the better part of valor, and the City Club should vote to recommend Oregonians vote against the Measure.

# **Minority Recommendation**

The minority of your committee recommends a no vote.

#### **Signatures**

Respectfully submitted,

Elisa Dozono, Committee Chair

#### **Acknowledgements**

Your committee expresses appreciation to the following for their help and support:

Clifford Droke, Research Adviser

Alex Macfarlan, Research Associate

Greg Wallinger, Research and Policy Director

#### Witnesses

Earl Blumenauer, Oregon 3<sup>rd</sup> District, United States House of Representatives

Dwight Holton, Executive Director, Lines for Life

Anthony Johnson & David Kopilak , New Approach Oregon, chief petitioners, Initiative Petition 53, which became Ballot Measure 91

David Lesh, Oregon Criminal Defense Attorney

Mazen Malik, Senior Economist, and Christine Broniak, Economist, Oregon Legislative Revenue Office,

Josh Marquis, District Attorney, Clatsop County, representing Oregon District Attorneys Association

Steve Marks, Executive Director, Oregon Liquor Control Commission (OLCC) ++

Amanda Marshall, United States Attorney, and Scott Kerin, Assistant United States Attorney, District of Oregon, United States Department of Justice

Eric Martin, Adjunct Faculty, University of Oregon, and Past President & Director Emeritus of the Addiction Counselor Certification Board of Oregon

Mitch Morrissey, District Attorney, Denver, Colorado

Kevin Sabat, Smart Approaches to Marijuana (SAM)

Paul Stanford, The Hemp and Cannabis Foundation, chief petitioner, Initiative Petitions 21 & 22

Becky Straus, Legislative Director, American Civil Liberties Union (ACLU)

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# **About the City Club**

City Club of Portland brings together civic-minded people to make Portland and Oregon better places to live, work and play for everyone. For more information about City Club of Portland or for additional copies of this report, visit <a href="www.pdxcityclub.org">www.pdxcityclub.org</a>, email info@pdxcityclub.org or call 503-228-7231.

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#### **Endnotes**

<sup>&</sup>lt;sup>1</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section 7[1].

<sup>&</sup>lt;sup>2</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section 7(2)(g)

<sup>&</sup>lt;sup>3</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section 7 (2)(g) and Section 51 (2).

<sup>&</sup>lt;sup>4</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section 30(F).

<sup>&</sup>lt;sup>5</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section 59(1).

<sup>6</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section 60.

- <sup>8</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section 44.
- <sup>9</sup> James M. Cole. Memorandum for United States Attorneys, United States Department of Justice, Washington, D.C. 20530, 29 August 2013. This guidance memorandum was issued after two states legalized recreational marijuana and is referred to as "the Cole Memo" in this report. Cole issued a follow up memo on 14 February 2014 on the responsibilities of financial institutions and individuals for marijuana-related funds. (Memos had previously been issued on medical marijuana.)
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- <sup>11</sup> American Civil Liberties Union. The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests. June 2013, pages 128,132.
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- <sup>13</sup> Oregon State Bar: Oregon Marijuana Law. Online at http://www.osbar.org/public/legalinfo/1079\_marijuanalaw.htm
- <sup>14</sup> United States Census Bureau. Online at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk)
- <sup>15</sup> American Civil Liberties Union. The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests. June 2013, pages 21 and 130.
- <sup>16</sup> Witness testimony of Rep. Earl Blumenauer
- <sup>17</sup> Witness testimony of Anthony Johnson
- <sup>18</sup> Ibid.
- <sup>19</sup> Witness testimony of Josh Marquis; Witness testimony of Dwight Holton
- <sup>20</sup> Witness testimony of Mitch Morrissey; Witness testimony of Amanda Marshall; and Witness testimony of Scott Kerin

<sup>&</sup>lt;sup>7</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section 61.

<sup>21</sup> RG Morris, M. TenEyck, JC Barnes, TV Kovandzic (2014) The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. PLoS ONE 9(3).

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- <sup>26</sup> Witness testimony of Eric Martin
- <sup>27</sup> Ibid.
- <sup>28</sup> Witness testimony of Kevin Sabet; Witness testimony of Dwight Holton
- <sup>29</sup> Witness testimony of Eric Martin
- <sup>30</sup> Witness testimony of Anthony Johnson
- <sup>31</sup> Witness testimony of Eric Martin
- <sup>32</sup> Centers for Disease Control and Prevention. Cigarette smoking among U.S. high school students at lowest level in 22 years. Release. 12 June 2014
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<sup>&</sup>lt;sup>22</sup> Charles Hanson Towne (1923). The Rise and Fall of Prohibition: The Human Side of What the Eighteenth Amendment Has Done to the United States. New York: Macmillan. p. 159–62.)

- <sup>42</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section 29.
- <sup>43</sup> Anthony Johnson. Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, filed with the Office of the Secretary of State, Salem, Oregon, 28 January 2014, Section. 33(4) and (5)]
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<sup>&</sup>lt;sup>39</sup> Witness testimony of Kevin Sabet; Witness testimony of Anthony Johnson

<sup>&</sup>lt;sup>40</sup> Oregon Health Authority. Oregon Medical Marijuana Program Statistics. Online at https://public.health.oregon.gov/DiseasesConditions/ChronicDisease/MedicalMarijuanaProgram/Pages/data.aspx.

<sup>&</sup>lt;sup>41</sup> Witness testimony of Amber Johnson; Witness testimony of Dwight Holton; and Witness testimony of Josh Marquis

<sup>&</sup>lt;sup>46</sup> Jack Healy. "After 5 Months of Sales, Colorado Sees the Downside of a Legal High", The New York Times, Web, 31 May 2014.