

Oregon Cannabis Tax Act (OCTA) 2010

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[The office of Oregon's Attorney General has, by law, provided the ballot title summary below.]

Ballot Title: Permits State-Licensed Cultivation of Marijuana, Sale of Marijuana to Adults Through State Liquor Stores

Results Of "Yes" Vote: "Yes" vote permits state-licensed cultivation of marijuana and sale to adults through state liquor stores; ninety percent of net proceeds to state general fund.

Results Of "No" Vote: "No" vote retains all existing prohibitions against the cultivation, manufacture, possession, and delivery of marijuana; retains current statues that permit regulated use of marijuana.

Summary: Current law prohibits cultivation, manufacture, possession, and delivery of marijuana, but permits regulated medical use of marijuana. Proposed measure replaces state, local marijuana laws exept driving under the influence laws. Directs renamed Oregon Cannabis and Liquor Control Commission to license marijuana cultivation by qualified persons and to purchase entire crop. Commission sells marijuana at cost to pharmacies and medical research facilities for medical purposes, and to qualified adults for profit through state liquor stores.

Ninety percent of net proceeds goes to state general fund; smaller percentages for education, drug abuse treatment, promotion of hemp products.

Bans sales to, and possession by, minors. Bans public consumption except where signs permit and minors barred. Commission to regulate illicit use, set price, other duties. Provides penalties. Other provisions.

The Proposed Law:

The Oregon Cannabis Tax Act

Whereas the people of the State of Oregon find that Cannabis hemp is an environmentally beneficial crop that:

- (a) Yields several times more fiber, for paper and textiles, and healthier protein and oil than any other plant;
- (b) Yields cloth and paper of superior strength and durability without the application of pesticides during cultivation and without producing cancer-causing pollutants during processing;
- (c) Yields more biomass than any other plant outside the tropics, though it grows well in the tropics too, and grows faster than any other plant on earth in the temperate and cooler climates;

(d) Yields a substance that relieves the suffering of many ill people without life-threatening side effects; and,

Whereas the people find that federal and corporate misinformation campaigns that economically benefit small groups of people have suppressed the information above and the fact that:

(a) George Washington grew cannabis for more than 30 years and, while he was President, said, “the artificial preparation of hemp is really a curiosity” and told his Secretary of the Treasury, Alexander Hamilton, that he was, “suggesting the policy of encouraging the growth of Hemp”;

(b) Thomas Jefferson invented a device to process cannabis, and cannabis fiber was used for most clothing and paper production until the invention of the cotton gin;

(c) Gouverneur Morris of Pennsylvania, who spoke at the U.S. Constitutional Convention in 1787 more than any other delegate and of whom James Madison said, “the style and finish of the Constitution properly belongs to the pen of Gouverneur Morris,” wrote a paper he sent to Thomas Jefferson called, “Notes Respecting Tobacco” that compared cannabis and tobacco and concluded that cannabis “is to be preferred”; and,

Whereas the people find that cannabis is Oregon’s largest cash crop, indicating that cannabis prohibition has failed; and

Whereas the people find that, despite misinformation concocted to justify cannabis prohibition, the courts of Alaska, Hawaii and Michigan have noted presidential commission findings, scientific studies, and learned treatises which:

(a) Characterize cannabis as a relatively nonaddictive and comparatively harmless euphoriant used and cultivated for more than 10,000 years without a single lethal overdose;

(b) Demonstrate that moderate cannabis intoxication causes very little impairment of psychomotor functions; reveal no significant physical, biochemical, or mental abnormalities attributable solely to cannabis use; and that long-term, heavy cannabis users do not deviate significantly from their social peers in terms of mental function;

(c) Disprove the “stepping stone” or “gateway drug” argument that cannabis use leads to other drugs; rather, that lies taught about cannabis, once discovered, destroy the credibility of valid educational messages about moderate and responsible use and valid warnings against other truly dangerous drugs;

(d) Indicate that cannabis users are less likely to commit violent acts than alcohol users, refute the argument that cannabis causes criminal behavior, and suggest that most users avoid aggressive behavior, even in the face of provocation; and

(e) Declare that cannabis use does not constitute a public health problem of any significant dimension;

finds no rational basis for treating cannabis as more dangerous than alcohol; and

Whereas the people of the State of Oregon find that cannabis does not cause the social ills that its prohibition was intended to guard against; rather, that most of the social ills attributed to cannabis result from its unreasonable prohibition which:

(a) Provides incentives to traffic in marijuana instead of limiting its prevalence, since almost all cannabis users evade the prohibition, even though drastically expanding public safety budgets have reduced funding for other vital services such as education;

(b) Fosters a black market that exploits children, provides an economic subsidy for gangs, and sells cannabis of questionable purity and uncertain potency;

(c) Generates enormous, untaxed, illicit profits that debase our economy and corrupt our justice system; and,

(d) Wastes police resources, clogs our courts, and drains the public budget to no good effect; and,

Whereas, the people recall that alcohol prohibition had caused many of the same social ills before being replaced by regulatory laws which, ever since, have granted alcohol users the privilege of buying alcohol from state licensees, imposed strict penalties protecting children, delivered alcohol of sure potency, and generated substantial public revenues; and,

Whereas the people hold that cannabis prohibition is a sumptuary law of a nature repugnant to our constitution's framers and which is so unreasonable and liberticidal as to:

(a) Arbitrarily violate the rights of cannabis users to be secure against unreasonable search and seizure as guaranteed to them by Article 1, Section 9 of the Oregon Constitution;

(b) Unreasonably impose felony burdens on the cannabis users while the state grants special privileges to alcohol users, which violates Article 1, Section 20 of the Oregon Constitution;

(c) Unnecessarily proscribe consumption of an "herb bearing seed" given to humanity in Genesis 1:29, thereby violating their unqualified religious rights under Article 1, Section 3 and their Natural Rights under Article 1, Section 33 of the Oregon Constitution;

(d) Violates the individual's right to privacy and numerous other Natural and Constitutional Rights reserved to the people under Article 1, Section 33 of the Oregon Constitution;

(e) Violates the state's right to regulate and tax an intoxicant market as reserved to states under the 10th Amendment of the U.S. Constitution, thereby abdicating control to illicit markets; and,

(f) Irrationally subvert the ends to which, in its Preamble, the Oregon Constitution was ordained and the purposes, in Article 1, Section 1, for which our government was instituted; now,

Therefore, the people find that the constitutional ends of justice, order, and the perpetuation of

liberty; the governmental purposes of preserving the peace, safety, and happiness of the people; and the vitality of the other constitutional provisions cited above, demand the replacement of a costly, self-defeating prohibition with regulatory laws controlling cannabis cultivation, potency, sale, and use; defining and prohibiting cannabis abuse; protecting children with a comprehensive drug education program and strict penalties for the sale or provision of cannabis to minors; funding a state drug abuse treatment program; and raising substantial revenue for public use.

Wherefore, be it enacted by the people of the state of Oregon, the laws relating to cannabis are revised as follows:

Section 1. This Act shall operate uniformly throughout Oregon and fully replace and supersede all statutes, municipal charter enactments, and local ordinances relating to cannabis, except those relating to operating a motor vehicle while intoxicated. The name of the Oregon Liquor Control Commission is hereby changed to the Oregon Cannabis & Liquor Control Commission. This Act is a scientific experiment by the people of the state of Oregon to lower the misuse of, illicit traffic in and harm associated with cannabis and will set up voluntary studies of cannabis users under ORS 474.045 (b) and other studies.

Section 2. Section 3 of this Act creates an ORS chapter 474 titled the "Oregon Cannabis Tax Act." Legislative Counsel shall move and renumber existing provisions of chapter 474.

Section 3. 474.005 Definitions. As used in this chapter:

(1) "Abuse" means repetitive or excessive drug use such that the individual fails to fulfill a statutory or common law duty, including but not limited to the duties owed by parents to children, by motorists to pedestrians and other motorists, and by employees to employers, fellow employees, and the public.

(2) "Cannabis" means the flowering tops and all parts, derivatives, or preparations of the cannabis plant, also known as "marijuana," containing cannabinoids in concentrations established by the commission to be psychoactive, but does not include "hemp" as defined by ORS 474.005(5).

(3) "Commission" means the Oregon Cannabis & Liquor Control Commission, or OCLCC, formerly the Oregon Liquor Control Commission.

(4) "Cultivation" means growing the cannabis plant.

(5) "Hemp" means the seeds, stems, and stalks of the cannabis plant, and all other parts, products, and byproducts of the cannabis plant not containing cannabinoids in concentrations established by the commission to be psychoactive. Seeds and starts of all cannabis strains shall be considered hemp.

(6) "Person" means a natural individual or corporate entity of any kind whatsoever.

474.015 Short Title. This chapter may be cited as the "Oregon Cannabis Tax Act."

474.025 Purpose of the Oregon Cannabis Tax Act. This chapter shall be liberally construed so as to minimize the misuse and abuse of cannabis; to prevent the illicit sale or provision of cannabis to

minors; and to protect the peace, safety, and happiness of Oregonians while preserving the largest measure of liberty consistent with the above purposes.

474.035 Powers and duties of the commission, licenses for cultivation and processing. Hemp fiber, protein, oil not regulated.

(1) The commission shall have the powers necessary to carry out the provisions of this chapter. It shall make such rules and regulations as will discourage and minimize the diversion of cannabis to illicit sale or use within the state, the illicit importation and sale of cannabis cultivated or processed outside the state, and the illicit export or removal of cannabis from the state. The commission's jurisdiction shall extend to any person licensed under this chapter

to cultivate or process cannabis, but shall not extend to any person who manufactures products from hemp. Hemp production for fiber, protein and oil shall be allowed without regulation, license or fee. No federal license shall be required to cultivate hemp in Oregon.

(2) The commission shall issue to any qualified applicant a license to cultivate cannabis for sale to the commission. The license shall specify the areas, plots, and extent of lands to be cultivated. The commission shall equitably apportion the purchase of cannabis among all licensees. The commission shall purchase and sell cannabis products of the quality and grade set by market demand.

(3) The commission shall issue licenses to process cannabis to qualified applicants who submit successful bids. Licensed processors shall, as specified by the commission, contract, cure, extract, refine, mix, and package the entire cannabis crop and deliver it to the commission's physical possession as soon as possible, but not later than four months after harvest.

474.045 Commission to sell cannabis at cost for medical purposes. The Commission shall sell cannabis at cost, including OCLCC expenses:

(a) To Oregon and other states' pharmacies for use under a physician's order for glaucoma, nausea related to chemotherapy, AIDS, or any other condition for which a physician finds cannabis to be an effective treatment; and,

(b) To recognized Oregon medical research facilities for use in research directed toward expanding medical and sociological knowledge of the composition, effects, uses, and abuse of cannabis, to include studies of cannabis purchasers voluntarily participating through OCLCC stores under ORS 474.055.

474.055 Commission to set price and sell through OCLCC stores. The commission shall sell cannabis through OCLCC stores and shall set the retail price of cannabis to generate profits for revenue to be applied to the purposes noted in ORS chapter 474 and to minimize incentives to purchase cannabis elsewhere, to purchase cannabis for resale or for removal to other states.

474.065 Qualifications of purchasers and licensees, effect of conviction. To be qualified to purchase, cultivate, or process cannabis, a person must be over 21 years of age and not have been convicted of sale of cannabis to minors or convicted under this chapter of unlicensed cultivation or sale of cannabis.

(2) Conviction for cultivation or sale of cannabis to other than minors, when committed prior to the effective date of this chapter, shall not be grounds for denial of an application for a license under this chapter.

474.075 Disposition of license fees and profits from sale of cannabis by state.

(1) The commission shall collect license fees which shall be calculated and continually appropriated to defray the commission's administrative costs of issuing licenses under this chapter and the Attorney General's costs of litigation in defense of the validity of this chapter's provisions and in defense of persons subjected to criminal or civil liability for actions licensed or required under this chapter.

(2) All money from the sale of cannabis shall be remitted to the State Treasurer for credit to a cannabis account, from which sufficient money shall be continually appropriated:

(a) To reimburse the commission for the costs of purchasing, processing, testing, grading, shipping, and selling cannabis; of regulating, inspecting, and auditing licensees; and of research studies required by this chapter; and,

(b) To reimburse the Attorney General's office for costs of enforcing this chapter's criminal provisions.

(c) To reimburse OCLCC contractors for their expenses and labor with 15 percent of gross sales.

(3) All money remaining in the cannabis account after reimbursement of the related commission and Attorney General costs shall be profits which the State Treasurer shall distribute quarterly as follows:

(a) Ninety percent shall be credited to the state's general fund to finance state programs.

(b) Eight percent shall be credited to the Department of Human Resources and shall be continually appropriated to fund various drug abuse treatment programs on demand.

(c) One percent shall be credited to create and fund an agricultural state committee for the promotion of Oregon hemp fiber, protein and oil crops and associated industries.

(d) One percent shall be distributed to the state's school districts, appropriated by enrollment, and shall be continually appropriated to fund a drug education program which shall:

(I) Emphasize a citizen's rights and duties under our social compact and to explain to students how drug abusers might injure the rights of others by failing to fulfill such duties;

(II) Persuade students to decline to consume intoxicants by providing them with accurate information about the threat intoxicants pose to their mental and physical development; and,

(III) Persuade students that if, as adults, they choose to consume intoxicants, they must nevertheless responsibly fulfill all duties they owe others.

474.085 Commission to establish psychoactive concentrations of cannabinoids. The commission, based

on findings made in consultation with the Board of Pharmacy and cannabis and hemp farmers to cannabinoid and cannabidiol concentrations which produce intoxication, the economics of residual cannabis extraction, and strains of hemp that produce better quality and quantity of fiber, protein and oil, shall establish reasonable concentrations of cannabinoids deemed psychoactive under this chapter.

474.095 Commission to set standards, test purity, grade potency of cannabis, label contents.

(1) The commission, in consultation with the State Board of Pharmacy, shall set standards which the commission shall apply:

(a) To test and reject cannabis containing adulterants in concentrations known to harm people; and,

(b) To grade cannabis potency by measuring the concentrations of psychoactive cannabinoids it contains.

(2) The commission shall affix to cannabis packages a label which shall bear the state seal, a certification of purity, a grade of potency, the date of harvest, a warning as to the potential for abuse, and notice of laws prohibiting resale, removal from the state, public consumption, and provision and sale to minors.

474.105 Commission may limit purchases. The commission may limit the quantity of cannabis purchased by a person at one time or over any length of time and may refuse to sell cannabis to any person who violates this chapters provisions or abuses cannabis within the meaning of ORS 474.005(1). The commission will require persons convicted of violating this act, any criminal statute while under the influence of cannabis, or neglecting any statutory or common-law duty by reason of cannabis intoxication or abuse, to complete a program prior to reinstating their privilege to purchase cannabis.

474.115 Unlicensed cultivation for sale, removal from the state, penalties. Cultivation for sale, removal from the state for sale, and sale of cannabis, without commission authority, shall be Class C felonies, and removal from the state of cannabis for other than sale shall be a Class A misdemeanor.

474.125 Sale or provision to minors, penalties, exception. The sale of cannabis to minors shall be a Class B felony, and gratuitous provision of cannabis to minors shall be a Class A misdemeanor, except when to a minor over 18 years of age under the same conditions provided by ORS 471.030(1) for alcohol.

474.135 Fine as additional penalty. In addition to other penalties and in lieu of any civil remedy, conviction of sale or unlicensed cultivation for sale under ORS 474.115 or 474.125 shall be punishable by a fine which the court shall determine will deprive an offender of any profits from the criminal activity.

474.145 Acquisition by minors, penalty. Except as provided by ORS 474.125, the purchase, attempt to purchase, possession, or acquisition of cannabis by a person under 21 years of age shall be a violation punishable by a fine of not more than \$250.

474.155 Public consumption prohibited, penalty, exception. Except where prominent signs permit and minors are neither admitted nor employed, public consumption of cannabis shall be a violation punishable by a fine of not more than \$250. 474.205 Commission to study methods of use, potential for abuse, establish cannabis levels for presumption of intoxication. The commission, in consultation with the Board of Pharmacy and by grants to accredited research facilities, shall:

(a) Study methods of use and the potential for, and ill effects of, abuse of cannabis, the possible damage of throat and lungs from inhaling cannabis smoke, less harmful methods of administration, including but not limited to filtration of smoke and non-combustive vaporization of the psychoactive agents in cannabis, and shall report its findings in pamphlets distributed at OCLCC stores; and,

(b) Study cannabis intoxication and, if practicable, shall establish by rule levels of impairment above which a person shall be presumed intoxicated.

474.215 Presumption of negligence. In civil cases, a rebuttable presumption of negligence shall arise upon clear and convincing evidence that a person is found to be intoxicated at the time of an accident and if the person's actions materially contributed to the cause of injury.

474.305 Disclosure of names and addresses prohibited. Information on applicants, licensees, and purchasers under this chapter shall not be disclosed except upon the person's request.

474.315 Attorney Generals duties. The Attorney General shall vigorously defend this Act and any person prosecuted for acts licensed under this chapter, propose a federal and/or international act to remove impediments to this chapter, deliver the proposed federal and/or international act to each member of Congress and/or international organization, and urge adoption of the proposed federal and/or international act through all legal and appropriate means.

474.325 Effect. This Act shall take effect on January 1, 2011. Any section of this Act being held invalid as to any person or circumstance shall not affect the application of any other section of this Act that can be given full or partial effect without the invalid section or application. If any law or entity of any type whatsoever is held to impede this chapters full effect, unimpeded provisions shall remain in effect and the impeded provisions shall regain effect upon the impediments removal.

Campaign for the Restoration
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