

**AOC**

**Association of  
Oregon Counties**

# Marijuana

## The County Experience in Oregon

Monday, October 30, 2017

**CCAP**

COUNTY COMMISSIONERS  
Association of Pennsylvania

**Rob Bovett**

**Legal Counsel**

**Association of Oregon Counties**

# AOC Position

- **Neutral on legalization of marijuana**
- **Promote and defend**
  - **Local opt in or out of marijuana businesses**
  - **Local reasonable regulation of time, place, and manner of marijuana businesses**
  - **Local tax options**



# Outline

## Overview of:

- **1. Brief Oregon timeline**
- **2. Brief overview: Oregon medical marijuana laws**
- **3. Brief overview: Oregon recreational marijuana laws**
- **4. Local control of marijuana businesses under Oregon law**
- **5. Biggest challenges**

# 1. Brief Oregon timeline

# Key Oregon Marijuana Laws

- **1973: Legislature decriminalized PCS < 1 oz**
- **1998: Voters approved Measure 67 (Medical)**
- **2005: Legislature expanded OMMA**
- **2013: Legislature authorized dispensaries**
- **2014: Voters approved Measure 91 (Recreational)**
- **2015: Legislative rewrite (Round 1)**
- **2016: Legislative rewrite (Round 2)**
- **2017: Legislative rewrite (Round 3)**

## **2. Brief overview: Oregon medical marijuana laws**

# Patients

- A patient with a qualifying condition and a recommendation from their attending physician can get a OMMP card from OHA
  - That person becomes a “cardholder”



# Cardholders

- **A cardholder can possess:**
  - **6 mature plants;**
  - **12 immature plants; and**
  - **24 ounces (1½ pounds) of usable marijuana**
- **A cardholder is exempted from the state criminal laws relating to marijuana so long as they are in compliance with OMMA**



# Designated Caregivers

- **A cardholder can also have a designated caregiver**
  - **The caregiver gets a card too**
  - **The caregiver can possess the marijuana for the patient, and assist in its use**

# Designated Growers

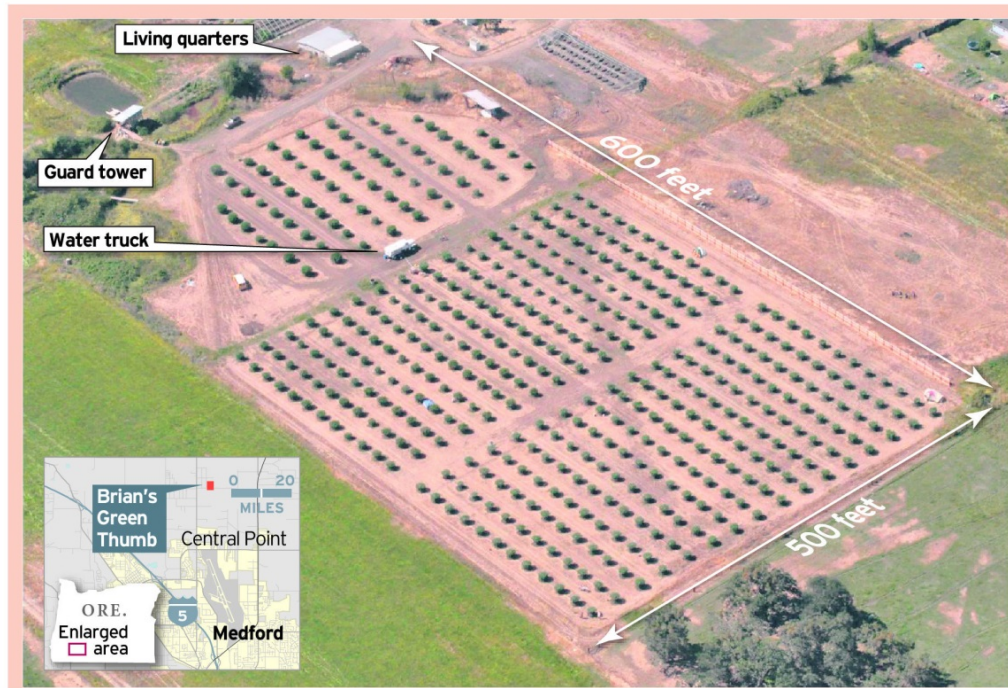
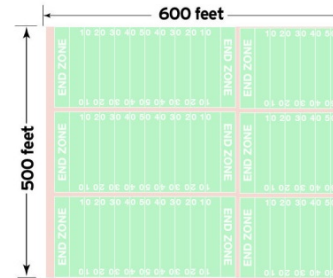
- **A cardholder may grow for themselves, or register a grower**
  - **Only one grow site per patient**
  - **Up to four patients per grower**
  - **Reimbursement of expenses**

# “Card Stacking”

- Multiple growers/caregivers at single location

## A big harvest at Green Thumb Farm

Federal agents at Brian's Green Thumb Farm, shown in this surveillance photo, found more than 1,000 pounds of marijuana, two processing machines and a money counter. Prosecutors say the operation – large enough to accommodate 4½ football fields – exemplifies the massive over-production achieved by people exploiting Oregon's medical marijuana program. Operator Brian Wayne Simmons has been charged with drug conspiracy and is awaiting trial.



Source: U.S. Drug Enforcement Administration.

DAN AGUAYO/THE OREGONIAN

# Dispensaries



**MEDICAL MARIJUANA**  
DISPENSARY PROGRAM

# Other OMMA Limits

- **No use in public view**
- **No growing in public view**
- **DUI law still applies**



# **3. Brief overview: Oregon recreational marijuana laws**

# Two Primary Components

- **A. Personal Allowance**
- **B. Retail Regulation and Taxation**

# Possession

- **A. Personal allowance (over 21)**
  - **Per household**
    - **8 ounces dried flowers/leaves**
    - **4 plants**
    - **16 ounces homemade solids**
    - **72 ounces homemade liquids**
    - **16 ounces homemade concentrates**
  - **Outside household**
    - **1 ounce**



# Sharing Homemade Products

- **A. Personal allowance (over 21)**
  - **Share with another (over 21) for no consideration**
    - **1 ounce homegrown dried flowers/leaves**
    - **16 ounces homemade solids**
    - **72 ounces homemade liquids**
    - **16 ounces homemade concentrates**

# Other Limits

- **No consumption in public**
- **No visibility from public place**
- **DUI law still applies**



# Regulation of Marijuana Businesses

- **B. Retail regulation and taxation**
  - **Business licensing and regulation**



# Taxation

- **B. Retail regulation and taxation**
  - **Taxation of retail sales**
    - **25 percent**
      - **“Early Start” sales**
    - **17 percent**
      - **OLCC Retail shops**
      - **Plus 3 percent local option**
    - **Medical is exempt**



# Taxation

- **B. Retail regulation and taxation**
  - **Taxation of retail sales**
    - **How much?**
      - **\$70,263,897** for FY 2016-2017  
(July 1, 2016 to June 30, 2017)



Source: Oregon Department of Revenue (2017)

# Distribution of Net Revenue

- **40 percent to schools**
- **25 percent for substance abuse treatment and prevention services**
- **15 percent to the Oregon State Police**
- **10 percent to counties, and 10 percent to cities**
  - Collected before July 1, 2017
    - Distributed based on population
  - Collected after July 1, 2017:
    - Distributed based on sub-formula
    - Opt in counties and cities only

# Miscellaneous

- **Measure 91 did not impact:**
  - **The rights of employers**
    - *Emerald Steel v BOLI*
  - **The rights of landlords**
  - **The Oregon Medical Marijuana Act**
    - *But not really*

# **4. Local control of marijuana businesses under Oregon law**



# Three Local Issues

- **a. Local opt in/out**
- **b. Local regulations**
- **c. Local taxation**

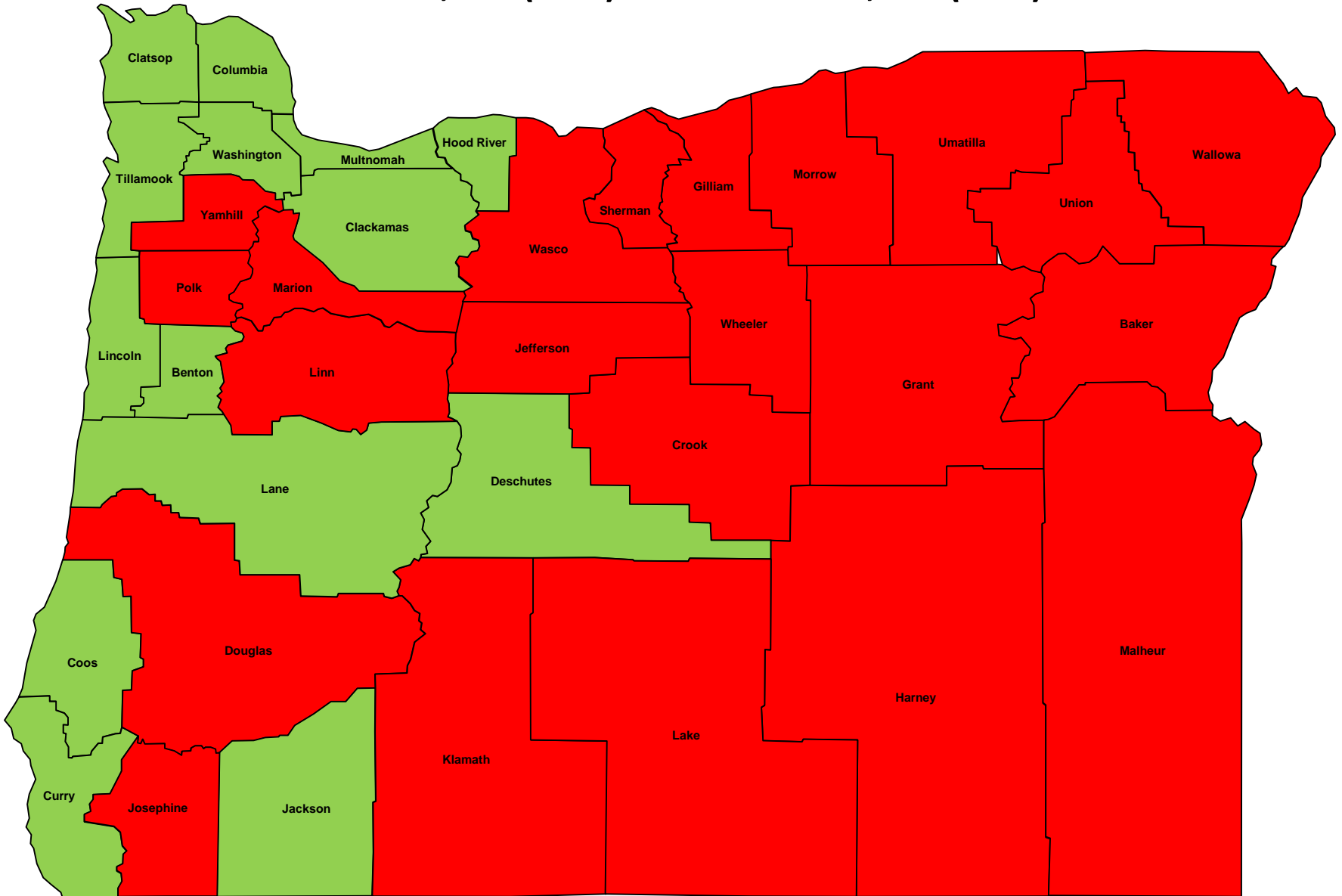
# a. Local Opt In/Out

- **Subject categories of marijuana businesses**
  - OLCC licensed
    - Producers
    - Processors
    - Wholesalers
    - Retailers
  - OHA registered
    - Processors
    - Dispensaries



# Measure 91 Election Results

■ Yes = 847,865 (56%)    ■ No = 663,346 (44%)



# Measure 91 Election Results

• Baker	59.47%	No	• Lake	61.86%	No
• Benton	60.49%	Yes	• Lane	60.65%	Yes
• Clackamas	52.12%	Yes	• Lincoln	61.98%	Yes
• Clatsop	56.47%	Yes	• Linn	52.74%	No
• Columbia	53.43%	Yes	• Malheur	68.72%	No
• Coos	53.55%	Yes	• Marion	51.56%	No
• Crook	58.85%	No	• Morrow	65.98%	No
• Curry	57.08%	Yes	• Multnomah	71.38%	Yes
• Deschutes	51.86%	Yes	• Polk	52.25%	No
• Douglas	54.51%	No	• Sherman	61.45%	No
• Gilliam	59.12%	No	• Tillamook	55.43%	Yes
• Grant	64.80%	No	• Umatilla	62.80%	No
• Harney	65.72%	No	• Union	59.04%	No
• Hood River	57.64%	Yes	• Wallowa	61.16%	No
• Jackson	53.37%	Yes	• Wasco	51.02%	No
• Jefferson	56.28%	No	• Washington	55.40%	Yes
• Josephine	50.0003%*	No	• Wheeler	65.53%	No
• Klamath	56.12%	No	• Yamhill	50.008%**	No

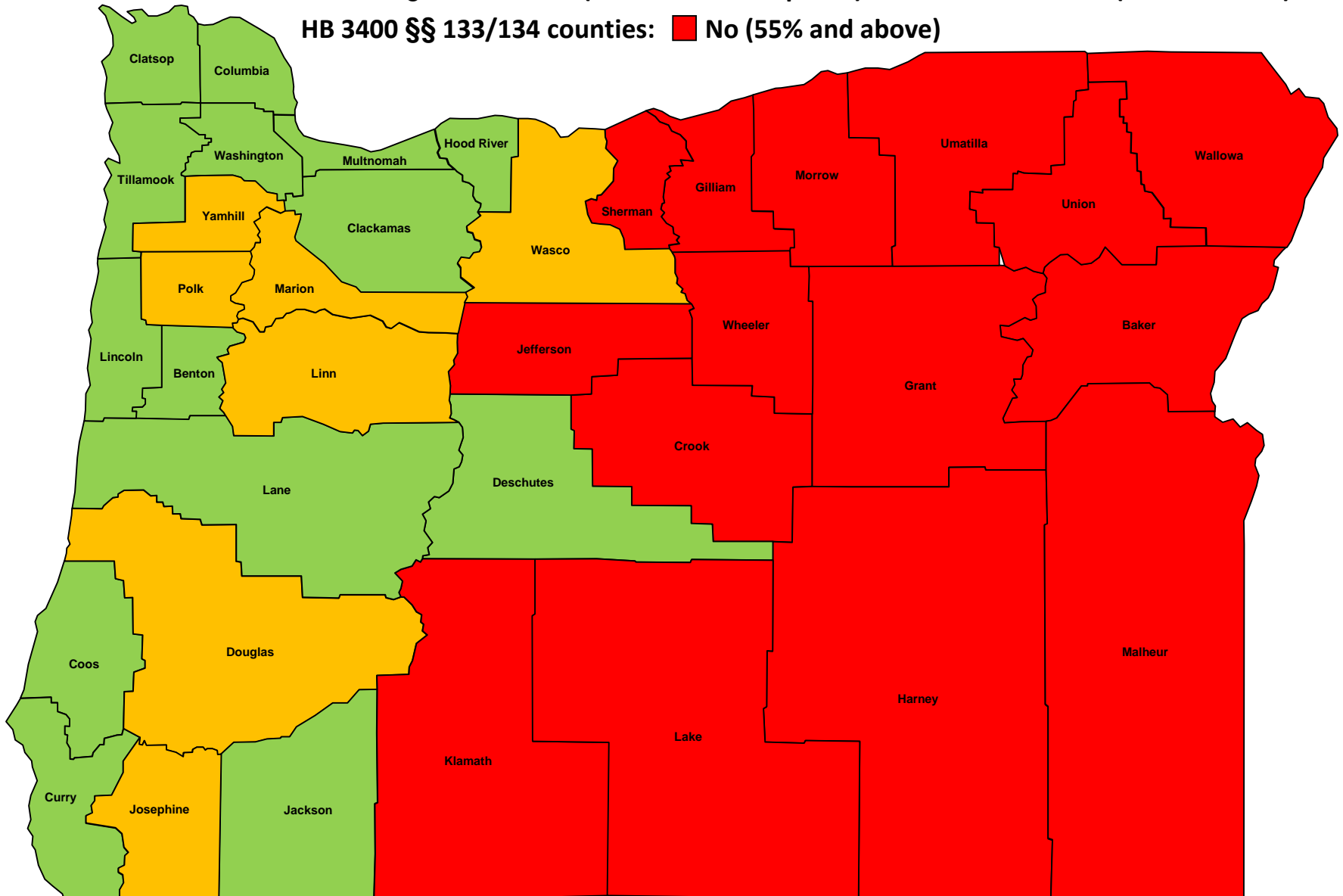
Source: Oregon Secretary of State, Elections Division

\* Difference of 2 votes    \*\* Difference of 60 votes

# Measure 91 Election Results and HB 3400 Opt Out Options

HB 3400 § 134 counties (local election required): ■ Yes and ■ No (less than 55%)

HB 3400 §§ 133/134 counties: ■ No (55% and above)



# Election on November 8, 2016

- **7 statewide ballot measures**
- **337 local ballot measures**
  - 184 of 337 were local marijuana ballot measures



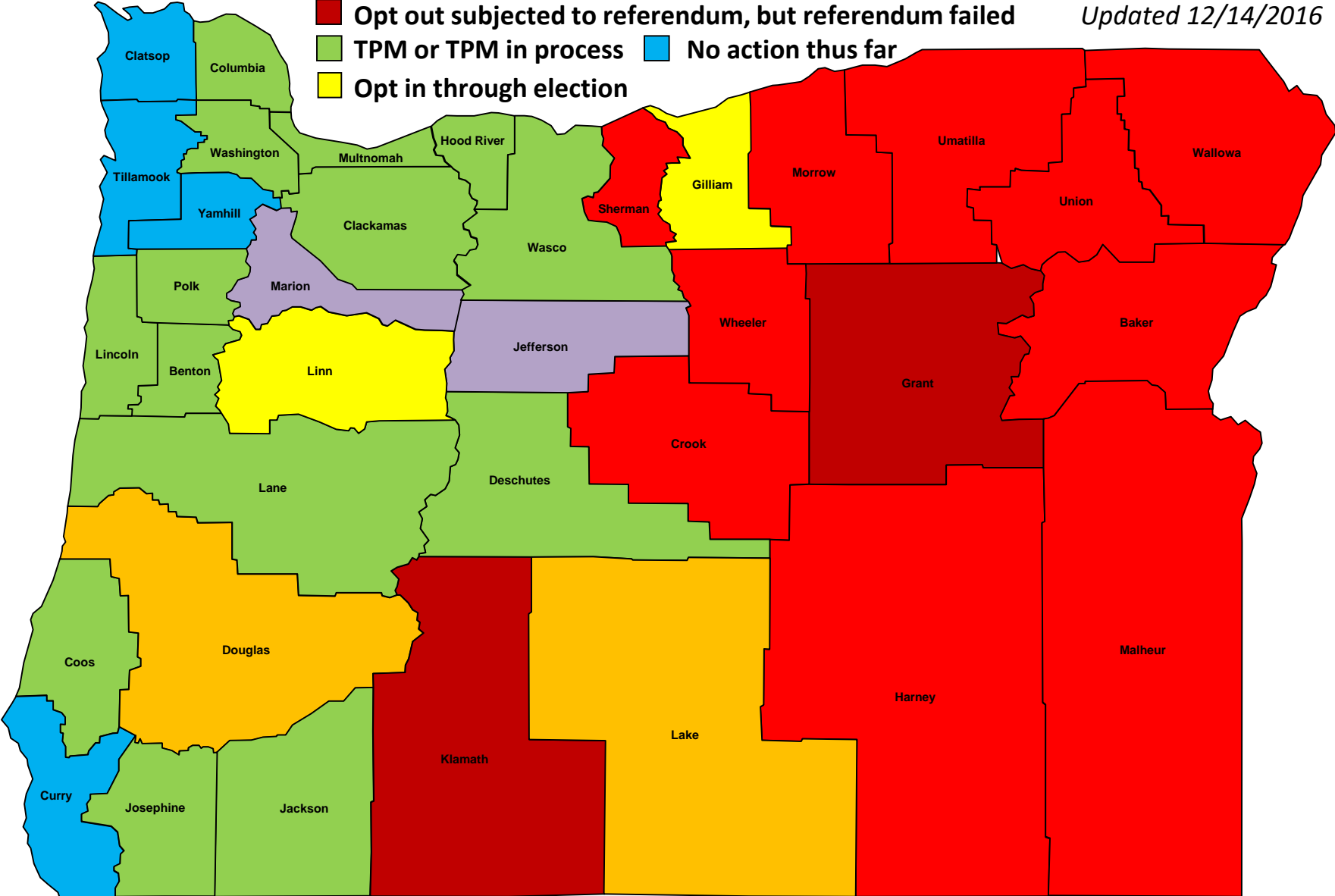
# Allowing Marijuana Businesses

- **61 counties and cities (73 Measures)**
  - 6 counties (13 measures)
    - 3 voted to allow (4 measures)
  - 55 cities (60 measures)
    - 24 voted to allow (25 measures)

# Local Control of Marijuana Businesses in Oregon Counties

- Opt out
- Opt out through election
- Opt out of retail only through election
- Opt out subjected to referendum, but referendum failed
- TPM or TPM in process
- No action thus far
- Opt in through election

Updated 12/14/2016





# Another Opt Out Path?

- **Opt Out**

- **Lead cases**

- *City of Cave Junction v State of Oregon*  
("Cave Junction I")
    - *Providing All Patients Access v City of Cave Junction*  
("Cave Junction II")



- **Issues:**

- **1. Does state law preempt local opt out of marijuana businesses (other than through state statute paths)?**
    - **2. If so, does federal law, in turn, preempt?**

# Issue 1. Home Rule in Oregon

- **Dillon's Rule**

- *"Show me where I can"*



- **Home Rule**

- *"Show me where I can't"*

# Issue 1. Key Home Rule Cases

- ***LaGrande/Astoria***

- *LaGrande/Astoria v PERB*, 281 Or 137, 576 P2d 1204, aff'd on reh'g 284 Or 173, 586 P2d 765 (1978)

- ***Haley v Troutdale***

- *State ex rel Haley v City of Troutdale*, 281 Or 203, 576 P2d 1238 (1978)

- ***Gunderson***

- *Gunderson LLC v City of Portland*, 352 Or 648, 658-59, 290 P3d 803 (2012)

- ***City of Phoenix***

- *Rogue Valley Sewer Services v City of Phoenix*, 357 Or 437, 353 P3d 581 (2015)

- ***GTE v PUC***

- *GTE v PUC*, 179 Or App 46, 39 P3d 201, rev den, 334 Or 492 (2002)

# Issue 2. Key Supremacy Clause Cases

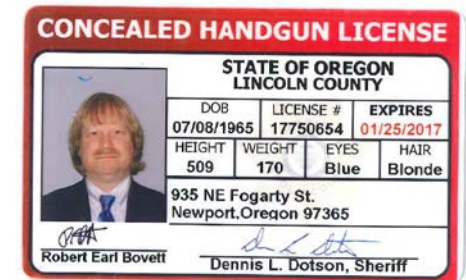
- ***Emerald Steel***

- *Emerald Steel Fabricators v BOLI*,  
348 Or 159, 230 P3d 518 (2010)



- ***Willis v Winters***

- *Willis v Winters*,  
350 Or 299, 253 P3d 1059 (2011)



- ***Ter Beek***

- *Ter Beek v City of Wyoming*,  
495 Mich 1, 846 NW2d 531 (2014)



# Status of *Cave Junction* Cases

- **1. Cave Junction I**
  - LOC/AOC prevailed in trial court
    - State law does not preempt (*case # 14CV0588*)
  - On appeal to the Oregon Court of Appeals
    - Briefing and argument complete (*case # A158118*)
- **2. Cave Junction II**
  - City/LOC/AOC prevailed in trial court
    - Federal law preempts any state preemption (*case # 14CV1246*)
  - Appealed to the Oregon Court of Appeals (*case # A160044*)
    - Dismissed as moot

## b. Local Regulations

- **Land use and zoning**
  - 36 counties with 36 different land use plans
  - LUCS required for all OLCC producer, processor, wholesaler, and retailer licenses, except small canopy producers
- **Local time, place and manner regulations**
  - Supplement to state laws and rules

# Time Place and Manner Regulations

- “Reasonable” TPM over seven categories of state licensed or registered marijuana businesses:

- Producers
- Processors
- Wholesalers
- Retailers
- Designated growers
- Processors
- Dispensaries



# What's Reasonable?

- **TPM / Land Use**
  - **Lead case:**
    - *Diesel v Jackson County*,  
284 Or App 301 (2017)
  - **Issue:**
    - **Whether prohibition of commercial growing in RR zone is “reasonable”**
    - **LUBA: It's reasonable**
    - **Oregon Court of Appeals: It's reasonable**

No. 109

March 8, 2017

301

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

Sandra DIESEL,  
*Petitioner,*

*v.*

JACKSON COUNTY,  
*Respondent.*

Land Use Board of Appeals  
2016039; A163267

Argued and submitted December 9, 2016.

Ross A. Day argued the cause for petitioner. With him on the brief were Matthew Swihart and Day Law & Associates, PC.

Joel Benton argued the cause and filed the brief for respondent.

Before Armstrong, Presiding Judge, and Tookey, Judge, and Shorr, Judge.

SHORR, J.

Affirmed.



## c. Local Taxation

- **Up to 3% supplemental local tax on sales**
  - Medical products exempt
  - Must hold local election - general election (November of even-numbered year)

# Election on November 8, 2016

- **7 statewide ballot measures**
- **337 local ballot measures**
  - 184 of 337 were local marijuana ballot measures



# Local Retail Marijuana Tax

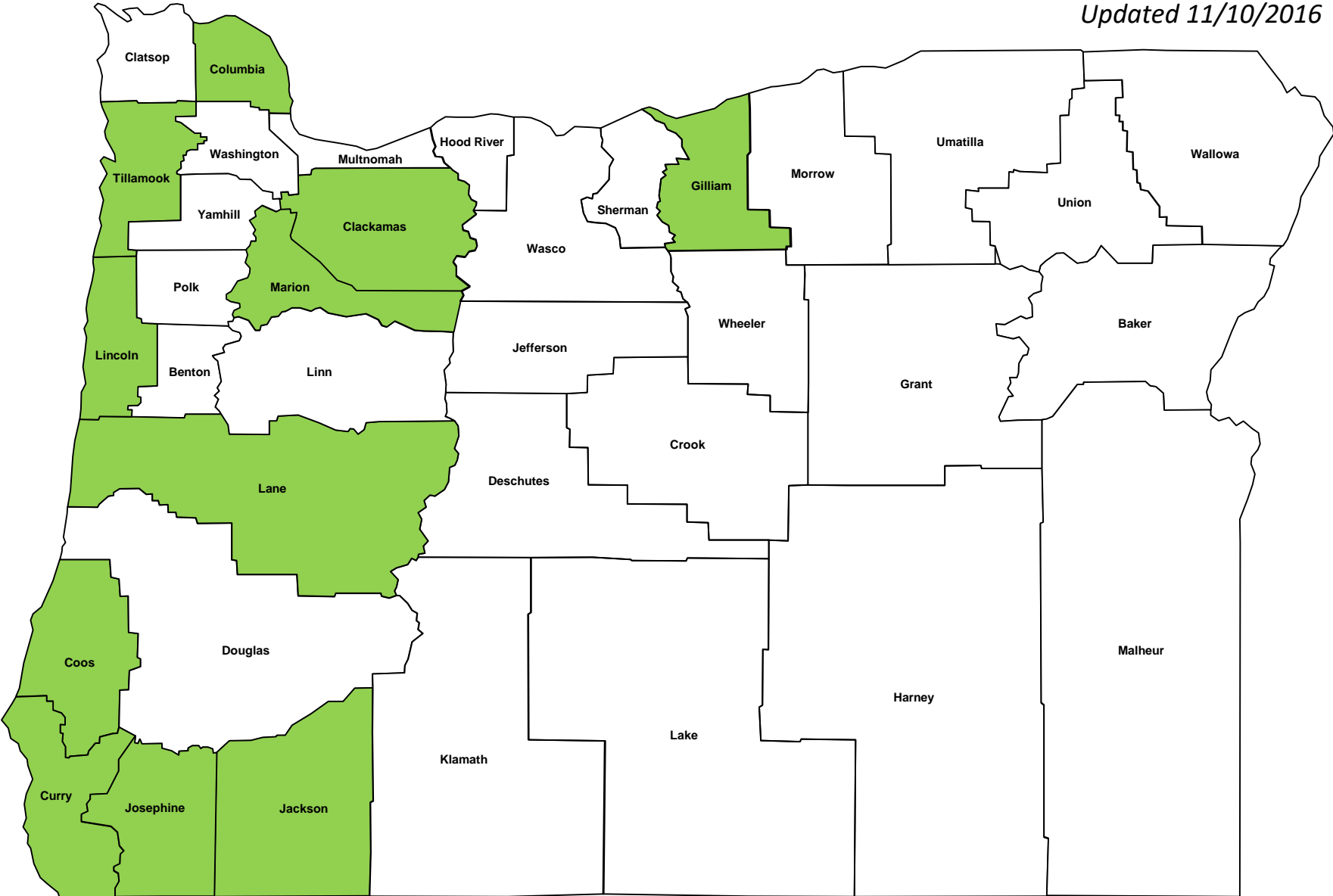
- **111 counties and cities**
  - 11 counties
  - 100 cities
- **All 111 passed**
  - Most by significant margins



# Marijuana Local Option Tax in Oregon Counties

■ 3% local option marijuana tax passed November 8, 2016

*Updated 11/10/2016*



# 5. Biggest challenges

# They are quite diverse

**KATU**  On Your Side

## Girl scout sells cookies outside Portland pot shop: 'It's not against the rules'



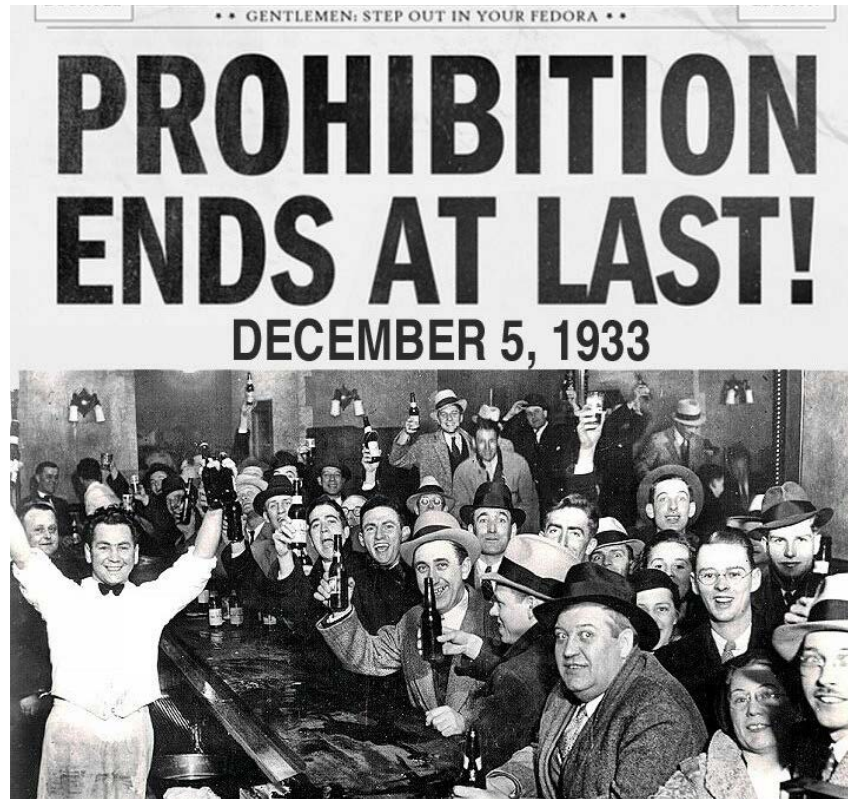
# These is just my short list

**In no particular order (and they are all interrelated):**

- **a. Federal-State Conflict**
  - **Prohibition**
  - **Leakage**
  - **Banking and income taxation**
  - **RICO**
- **b. Local regulation and NIMBY**
- **c. Youth usage**
- **d. DUII**
- **e. Homemade BHO**
- **f. State agency challenges**
- **g. State and local law enforcement resources**

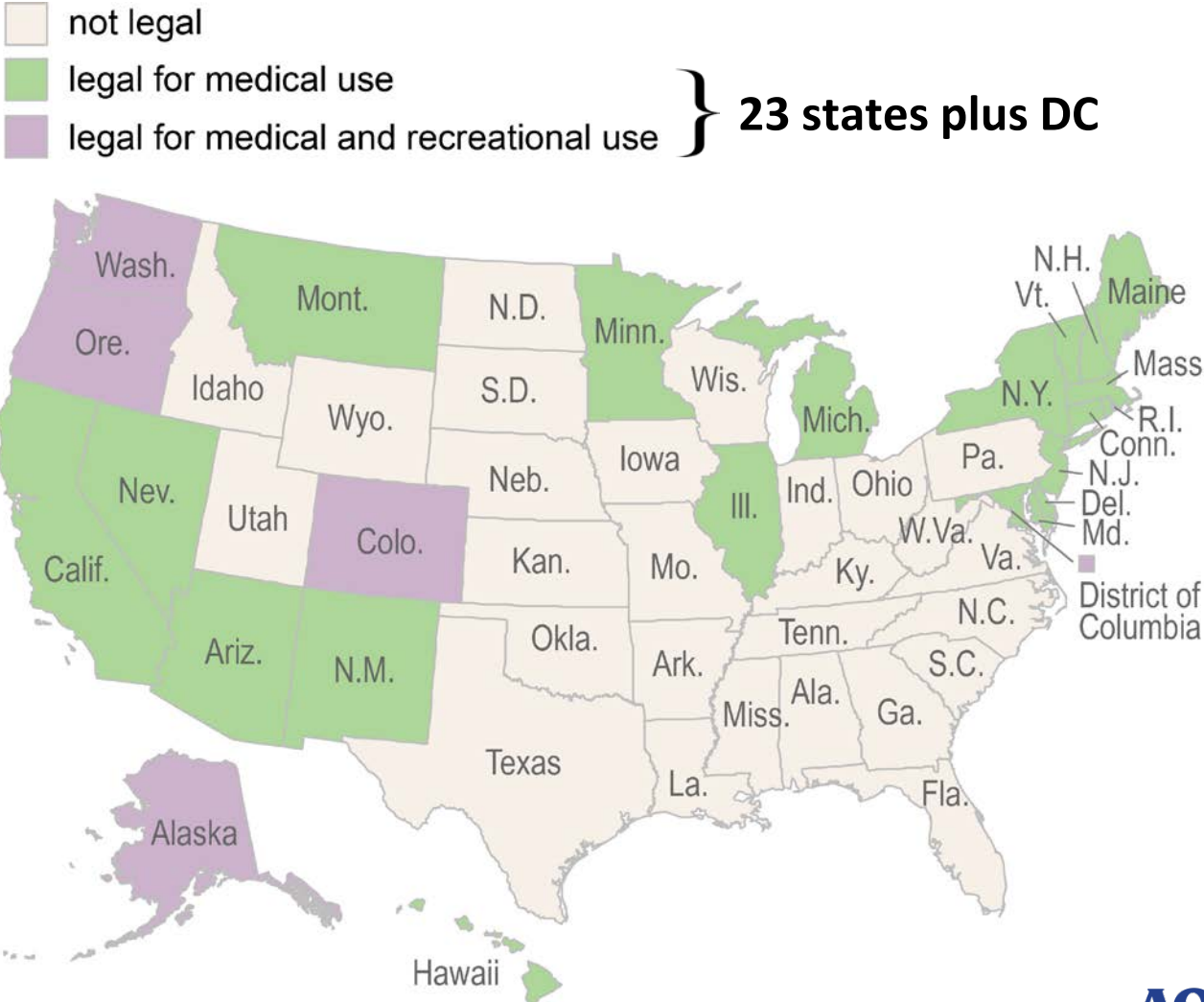
# Prohibition

- **A unique policy arena**
  - As compared to post-prohibition





# Prior to November 8 Election



# November 8 Marijuana Elections

- **Added 3 new medical states** (and expanded 1 existing)
  - **Arkansas Issue 6** **Yes 53%**
  - **Florida Amendment 2** **Yes 71%**
  - **Montana Initiative 182** (*expansion*) **Yes 58%**
  - **North Dakota Measure 5** **Yes 64%**
- **Added 4 recreational states** (each already allowed medical)
  - **Arizona Proposition 205** **No 51%**
  - **California Proposition 64** **Yes 57%**
  - **Maine Question 1** **Yes 50.26%**
  - **Massachusetts Question 4** **Yes 54%**
  - **Nevada Question 2** **Yes 54%**


# What does it all mean?

- Getting out my Dragon Ball <sup>1</sup> . . . uh, I mean Crystal Ball . . .



<sup>1</sup> [3,000 grams of pure cannabis extract measuring up to 99% THC. Approximate value = \\$150,000.](#)

# What does it all mean?


 U.S. Department of Justice  
Office of the Deputy Attorney General

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The Deputy Attorney General Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

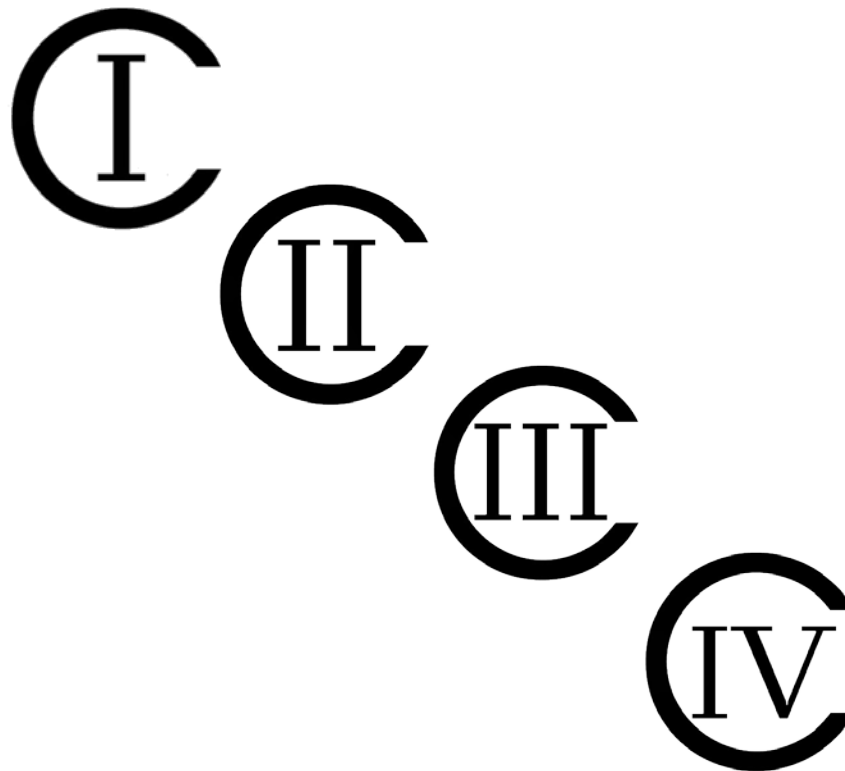
FROM: James M. Cole   
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

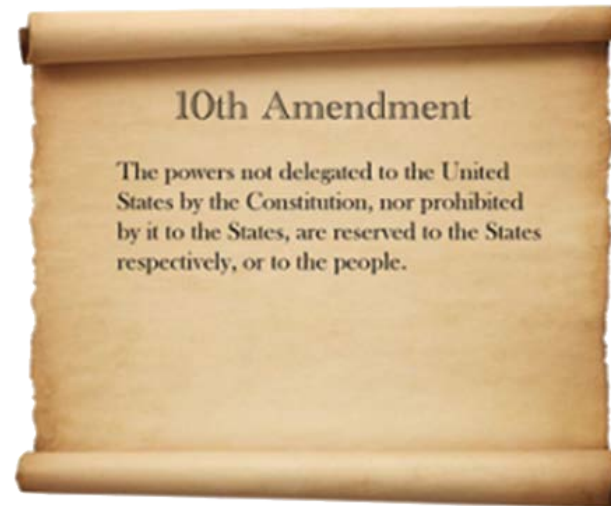
In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, 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;



# What does it all mean?



# The Feds and Oregon

## The Oregonian

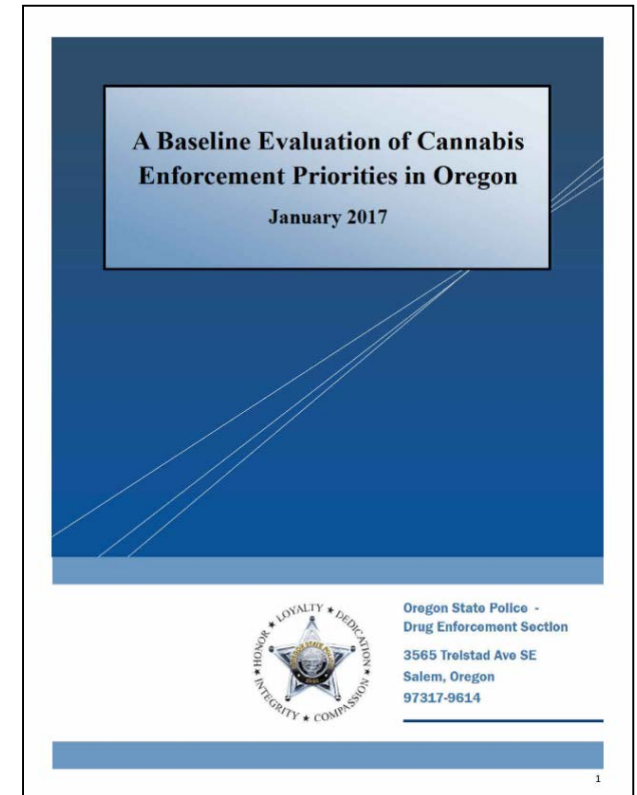
### Oregon remains a top source for black market pot, state police report says

March 18, 2017

By Noelle Crombie

Marijuana legalization has done little to change Oregon's longstanding reputation as a leading black market exporter of premium cannabis, state police say in a new analysis obtained by The Oregonian/OregonLive.

The report offers an unvarnished view of both legal and illegal marijuana production in Oregon at a time of uncertainty for marijuana policy nationally.



[http://www.oregonlive.com/marijuana/index.ssf/2017/03/oregon\\_a\\_top\\_source\\_for\\_black.html](http://www.oregonlive.com/marijuana/index.ssf/2017/03/oregon_a_top_source_for_black.html)

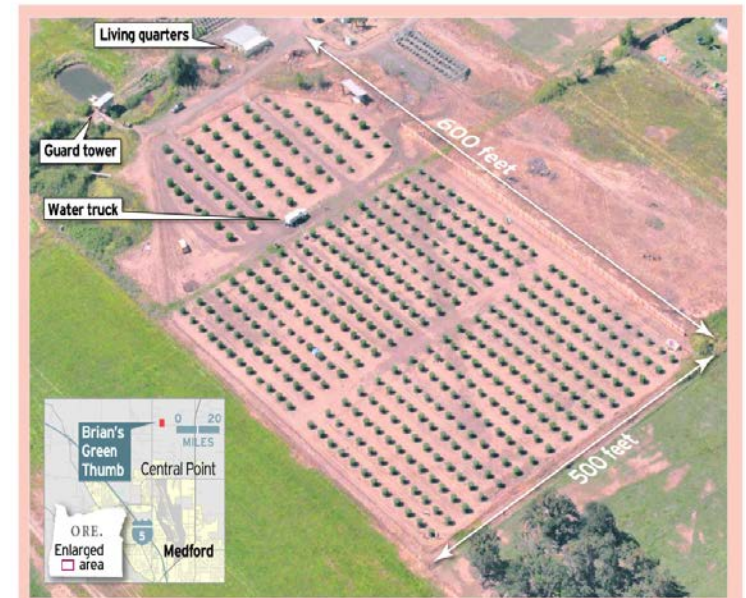
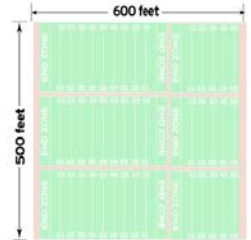
# Leakage

- Black market
  - Intrastate *and* interstate
- Grows
  - Diversion
  - Illegal grows/illegal



## A big harvest at Green Thumb Farm

Federal agents at Brian's Green Thumb Farm, shown in this surveillance photo, found more than 1,000 pounds of marijuana, two processing machines and a money counter. Prosecutors say the operation – large enough to accommodate 4½ football fields – exemplifies the massive over-production achieved by people exploiting Oregon's medical marijuana program. Operator Brian Wayne Simmons has been charged with drug conspiracy and is awaiting trial.



Source: U.S. Drug Enforcement Administration.

DAN AGUAYO/THE OREGONIAN

# The Feds and Oregon

## The Oregonian

### Oregon defends legal marijuana market to feds

June 12, 2017

By Noelle Crombie



High-level state officials met recently with the U.S. attorney for Oregon to defend the state's efforts to regulate marijuana in a state notorious for black market trafficking.

The session, disclosed publicly Monday, took place as the Trump administration re-examines the federal government's approach to marijuana enforcement.

[http://www.oregonlive.com/marijuana/index.ssf/2017/06/oregons\\_top\\_federal\\_prosecutor.html](http://www.oregonlive.com/marijuana/index.ssf/2017/06/oregons_top_federal_prosecutor.html)



# The Feds and Oregon



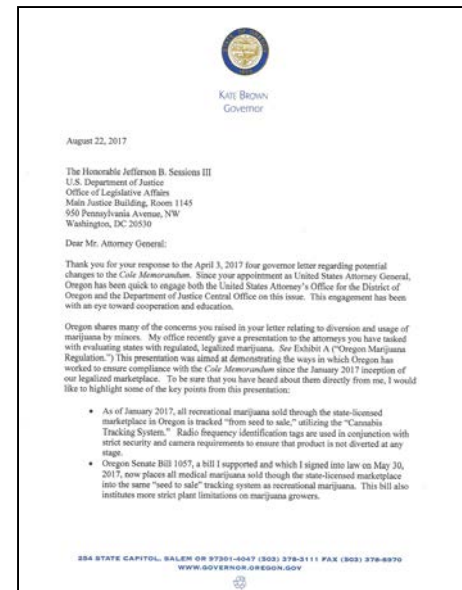
*Think Out Loud*

## Fixing Oregon's black market marijuana problems

August 23, 2017

Gov. Kate Brown has been exchanging letters with U.S. Attorney General Jeff Sessions about Oregon's marijuana market.

Rob Bovett, legal counsel for the Association of Oregon Counties, who has been involved in crafting Oregon's legal policies around marijuana, joins us to explain what the state is doing to make sure cannabis grown for the medical market doesn't make its way onto the black market.



<http://www.opb.org/radio/programs/thinkoutloud/segment/kicker-immigration-legal-help-in-eugene-god-squad/>

# Oregon

## The Oregonian

### Huff, puff, pass? AG's pot fury not echoed by task force

August 4, 2017

By Associated Press

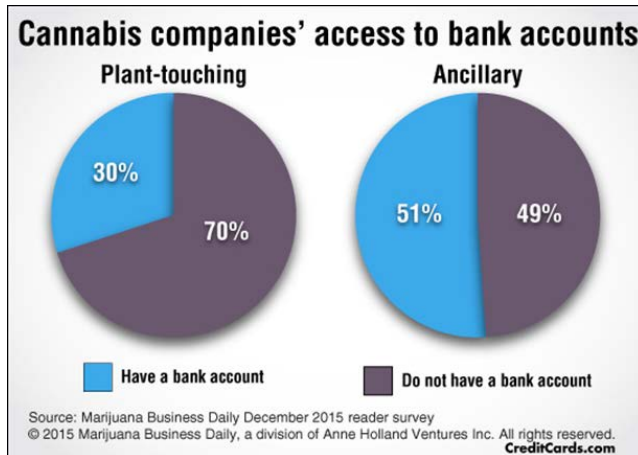
WASHINGTON -- The betting was that law-and-order Attorney General Jeff Sessions would come out against the legalized marijuana industry with guns blazing. But the task force Sessions assembled to find the best legal strategy is giving him no ammunition, according to documents obtained by The Associated Press.

The Task Force on Crime Reduction and Public Safety, a group of prosecutors and federal law enforcement officials, has come up with no new policy recommendations to advance the attorney general's aggressively anti-marijuana views. The group's report largely reiterates the current Justice Department policy on marijuana.



[http://www.oregonlive.com/marijuana/index.ssf/2017/08/huff\\_puff\\_pass\\_ag\\_s\\_pot\\_fury\\_no.html](http://www.oregonlive.com/marijuana/index.ssf/2017/08/huff_puff_pass_ag_s_pot_fury_no.html)

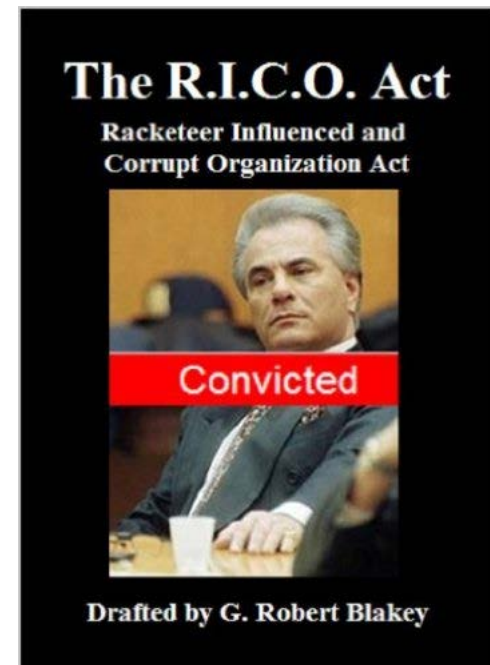
# Banking and Income Taxation



# RICO

- **RICO Cases**

- Racketeer Influenced and Corrupt Organizations Act  
18 USC §§ 1961-1968
  - Enacted in 1970 as Title IX of the Organized Crime Control Act of 1970
  - Criminal
    - Including forfeiture
  - Civil
    - Injunctive relief
    - Treble damages
    - Attorney fees



# Colorado

- **RICO Cases - Example**

- ***New Vision Hotels v Medical Marijuana of the Rockies***

- 15-cv-350 (D Colo, Feb 19, 2015)

- Plaintiff: Owns Holiday Inn, Frisco, Colorado
  - Defendants: Owners of Summit Marijuana dispensary planning to open retail, and business partners (property owner, construction contractor, bank, bonding company, accountant)



Case 1:15-cv-00350 Document 1 Filed 02/19/15 USDC Colorado Page 1 of 31

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-350

SAFE STREETS ALLIANCE and NEW VISION HOTELS TWO, LLC,  
Plaintiffs,

v.

MEDICAL MARIJUANA OF THE ROCKIES, LLC, GERALD JAY OLSON, THE  
MANAGERS, INC, ROBERT L. HAUSSMAN, CHRISTINE VOUTOUR, DAVID KATZ,  
JOHN DOE 1, DIKK FOWLER, BANK OF THE WEST, MERCHANTS BONDING CO.,  
ACCOUNTING SPECIALISTS, INC., AND MICHAEL MASSA,  
Defendants.

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COMPLAINT

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# Colorado

## **Racketeering lawsuits target Colorado marijuana industry**

**Two lawsuits represent a new approach, putting pinch not only on pot shops, but also landlords, banks, accountants and other ancillary businesses — and it has led to the closure of one of the marijuana businesses**

Monday, July 13, 2015

By Kristen Wyatt, Associated Press

A federal law crafted to fight the mob is giving marijuana opponents a new strategy in their battle to stop the expanding industry: racketeering lawsuits.

A Colorado pot shop recently closed after a Washington-based group opposed to legal marijuana sued not just the pot shop but a laundry list of firms doing business with it — from its landlord and accountant to the lowa bonding company guaranteeing its tax payments. One by one, many of the plaintiffs agreed to stop doing business with Medical Marijuana of the Rockies, until the mountain shop closed its doors and had to sell off its pot at fire-sale prices.

# Oregon

## The Oregonian

### Neighbors in Colorado can sue pot grower for stinky smells, federal appeals court rules

June 7, 2017

By Associated Press

DENVER -- A pot farm's neighbor can sue them for smells and other nuisances that could harm their property values, a federal appeals court ruled Wednesday.

The 10th U.S. Circuit Court of Appeals ruling revives a lawsuit between a Colorado horse farm and a neighboring marijuana-growing warehouse.



[http://www.oregonlive.com/today/index.ssf/2017/06/neighbors\\_in\\_colorado\\_can\\_sue.html](http://www.oregonlive.com/today/index.ssf/2017/06/neighbors_in_colorado_can_sue.html)

# In Oregon?

**Schwabe**  
WILLIAMSON & WYATT

March 8, 2017

**THOMAS M. TRIPLETT**  
Admitted in Oregon  
T: 503-796-2901  
triplett@schwabe.com

VIA E-MAIL (JACOB.RIPPER@DESCHUTES.ORG)  
VIA FIRST CLASS MAIL

Deschutes County Commissioners  
c/o Jacob Ripper, Associate Planner  
Deschutes County  
P. O. Box 6005  
Bend, Oregon 97708-6005

RE: Appeal of Deschutes County Administrative Determination  
Approving Recreational Marijuana Production Facility  
247-16-000600-AD Rubio Real Estate Investments, LLC, Owner  
By Douglas R. White, Oregon Planning Solutions, Applicant/Agent  
23105 Alfalfa Market Road, Deschutes County  
Appellants - Lance and Monika Piatt

Dear County Commissioners:

I write in support of the Piatt appeal. Certainly the normal issues of noise, smell, appropriateness to the area, and safety are key and common issues with which you deal frequently. This appeal brings another, important issue to the fore.

I am sure each of you is aware that growth, manufacture and distribution of marijuana violates federal law. It is also certain that federal law trumps state law on this subject. The Oregon Supreme Court in *SeEVERS v. Emerald Steel Fab*, 348 OR. 159 (1940) was faced with the question of whether a disabled user of medical marijuana could be disciplined by his employer for usage of the prescribed dosage. The employer had a no drug policy applicable to its employees. The Oregon Supreme Court adopted the defendant's argument as follows:

- Marijuana, including medical marijuana, is a proscribed substance under the Federal Controlled Substances Act.
- Use, sale, or distribution of marijuana violates federal law.
- Under the supremacy clause to the United States Constitution, the Oregon medical marijuana statute was unconstitutional.
- In consequence, the employee had no justiciable rights under the ADA.

This decision is not an outlier. Rather it is the unanimous opinion of courts which have dealt with the subject. See *Coats v. Dish Network* from the Colorado Supreme Court; and *James v.*

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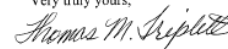
Deschutes County Commissioners  
March 8, 2017  
Page 2

*City of California*, among others. You should also recognize that the federal government recently refused to delist marijuana from the Controlled Substance list because of its grave and continuing health concerns.

Bottom line is that the land use applicant asks the County Commissioners to bless an activity which is unconstitutional and, which under federal law, is a crime. Nor may the Commissioners take solace under the Cole memoranda for two reasons. First, it is highly probably that Attorney General Sessions will withdraw the memoranda. But even more significant is the fact that civil liability can exist for the applicant, and potentially the Commissioners under the Federal RICO statute. Further, the County may be exposed under Section 1983 of the 1867 Civil Rights Act for damages sustained by the neighbors.

I strongly recommend that the County deny the land use applicant. At minimum, it should defer action pending clarification by the Attorney General.

Very truly yours,



Thomas M. Triplett

TMT:bak

cc: David Doyle, Esq. ([david.doyle@deschutes.org](mailto:david.doyle@deschutes.org))

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# Oregon

## The Oregonian

### Beavercreek property owners file racketeering suit against neighbors growing marijuana

July 5, 2017

By Maxine Bernstein

Two Beavercreek property owners are relying on a federal law usually reserved to fight organized crime to sue their neighbors, contending the people next door are engaged in racketeering by producing and selling marijuana.

Rachel McCart and Erin McCart, who own about 11 acres of fenced pastures and woodland off South Highland Crest Drive, say the operation harms their quality of life and diminishes the value of their land.

Case 3:17-cv-00927-AC Document 1 Filed 06/13/17 Page 1 of 61

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7 Fax: (503) 343-9680

8 Of Attorneys for Plaintiffs Rachel McCart and Erin McCart

9

10 RACHEL MCCART and ERIN )  
11 MCCART, ) No.  
12 )  
13 Plaintiffs )  
14 v. ) COMPLAINT  
15 ) For Violation of  
16 CLIFFORD BEDDOW; CAROL ) to 18 USC § 1962  
17 BEDDOW; JEFFREY SIMONSON, )  
18 HIDDEN ACRES REAL ESTATE, LLC; )  
19 GOOD NEIGHBOR FARMS, LLC; )  
20 DONALD KOPSHY; ANGELA KOPSHY; )  
21 CHARLES NEAL; JAY HASER; )  
22 GREENLAND HOLDINGS, INC.; )  
23 HERBACEOUS FARMS, LLC; JOHN )  
24 DININO; ROBERT DININO; MARY )  
25 CROSS, aka MARY TINKLER, aka MARY )  
26 TINKLER, CROSS, GRAND, LLC; )  
27 WILLIAMS, LLC; BCC HOLDINGS, LLC; )  
28 DAVID ALPORT; CFA RETAIL, LLC; )  
29 MICHAEL J. GENOVESE; DIVINE KIND, )  
30 INC.; NITIN KHANNA; TIDEWATER )  
31 RETAIL, INC.; TIDEPOOL OREGON )  
32 CITY, INC.; TIDEPOOL CORVALLIS, )  
33 INC.; TIDEPOOL EAST, INC.; )  
34 TIDEPOOL MILWAUKIE, INC.; )  
35 TIDEPOOL NORTEAST, INC.; )

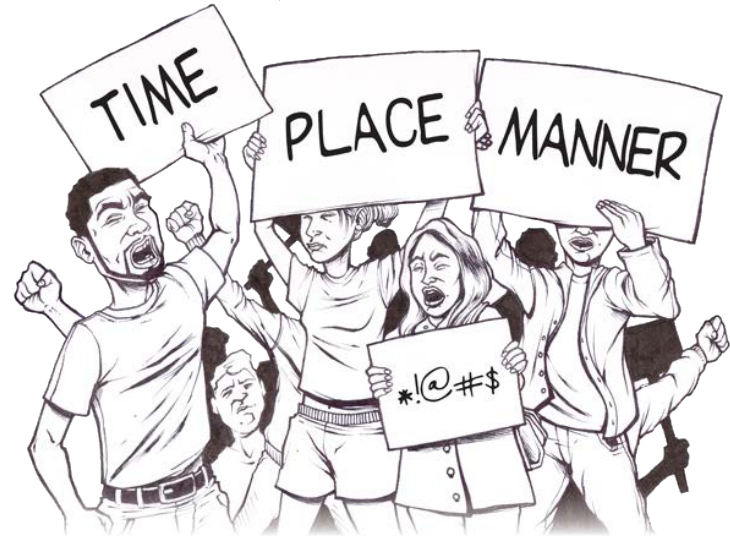
Page 1 --COMPLAINT

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[http://www.oregonlive.com/pacific-northwest-news/index.ssf/2017/07/beavercreek\\_couple\\_files\\_racke.html](http://www.oregonlive.com/pacific-northwest-news/index.ssf/2017/07/beavercreek_couple_files_racke.html)

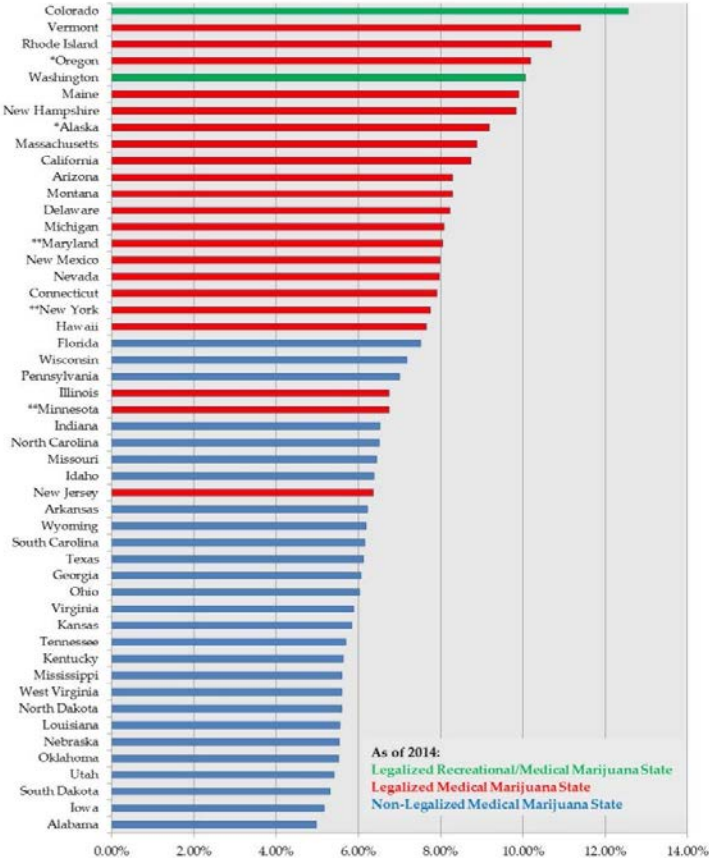
# b. Local Regulation and NIMBY

- Opt in/out
- TPM
  - Land use



# c. Youth Usage

Past Month Usage by 12 to 17 Years Old, 2013/2014



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

NOTE:  
 \*Oregon and Alaska voted to legalize recreational marijuana in November 2014  
 \*\*States that had legislation for medical marijuana signed into effect during 2014



# d. DUI

## Marijuana DUIs expected to increase

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Sgt. Ben Drongesen, Drug Recognition Expert with the Benton County Sheriffs Office, talks about using stethoscopes and blood pressure cuffs to evaluate if someone is under the influence of drugs.

Buy Now



# e. Homemade BHO



# e. Homemade BHO

## The Oregonian

### Editorial: State should take stronger steps to curb illegal hash-oil labs

August 31, 2017

By Oregonian Editorial Board

Oregon has been showing the nation just how normal life with legalized recreational marijuana can be. Voters overwhelmingly approved legalization in 2014. A bipartisan legislative committee translated that vision into a framework. And the state can now proudly point to a booming industry that generates tens of millions of dollars in taxes and thousands of jobs.



Unfortunately, state officials haven't shown the same matter-of-fact mentality in responding to one of the most threatening side effects: The rise of butane hash oil manufacturing by unlicensed processors.

[http://www.oregonlive.com/opinion/index.ssf/2017/08/state\\_should\\_take\\_stronger\\_ste.html](http://www.oregonlive.com/opinion/index.ssf/2017/08/state_should_take_stronger_ste.html)

## f. State agency challenges

- Regulation
- Enforcement

REGULATE



Oregon  
Health  
Authority

## g. State and local law enforcement resources





# g. State and local law enforcement resources



## News Release

Oregon Liquor Control Commission  
9079 SE McLoughlin Blvd., Portland, OR 97222-7355  
1-800-452-6522

For more information:  
Mark Pettinger, Spokesperson  
[Mark.pettinger@oregon.gov](mailto:Mark.pettinger@oregon.gov)  
503-872-5115

September 12, 2017

### OLCC Partners With Law Enforcement to Tackle Illegal Marijuana Operations New Collaborative Approach and Policy Change



## News Release

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September 12, 2017

### OLCC Partners With Law Enforcement to Tackle Illegal Marijuana Operations New Collaborative Approach and Policy Change

**Medford, Oregon** – The Oregon Liquor Control Commission today met with law enforcement officials, local district attorneys and US attorney's office officials to announce policy changes and partnership efforts. Director Steven Marks informed the group today of OLCC's licensing and enforcement efforts and announced policy changes to further constrict the diversion of marijuana into the illegal market.

In order to ensure that marijuana produced during the 2017 outdoor growing season isn't diverted to the illegal market the OLCC is making an exception to rules defining mature plants for outdoor producers. The exception will apply to applicants that submitted valid applications to the OLCC before June 23, 2017. "This step is one of the remedies we're putting into place in order to ensure the success of the regulated marijuana market, and to further reduce the ability of product to reach the illegal market," said Steven Marks, OLCC Executive Director.

Oregon State Police will have a marijuana team co-locate with the OLCC Medford regional office. There will also be a team assigned out of the OSP office in Salem or Portland. "OSP has the expertise and resources to figure out which law enforcement agencies need to be involved, whether it's a city police department or multi-agency task force," said Marks. "Together we can address that gray area, illegal grows and processing sites that OLCC doesn't have the ability to regulate and bring forward for prosecution."

Since January 1, 2017 the OLCC has received almost 1,000 new recreational marijuana applications and about 400 of those were for outdoor or mixed production licenses. In addition to processing these new applications OLCC staff have been handling license renewals and license changes.

As the 2017 fall harvest approaches the OLCC is trying to get as many people licensed and into the regulated system. At the same time Oregon's legalized marijuana industry has been supportive of compliance and enforcement activity. "As the second outdoor harvest under the regulated system approaches the OLCC expects better reporting and compliance," said Marks. "Licensees have been using the Cannabis Tracking System for a year and our staff is in a better position to manage and control the regulated system."

--###--

[http://www.oregon.gov/olcc/docs/news/news\\_releases/2017/nr\\_09\\_12\\_17\\_OSPShare.pdf](http://www.oregon.gov/olcc/docs/news/news_releases/2017/nr_09_12_17_OSPShare.pdf)

# AOC Marijuana Publications

<http://oregoncounties.org/news/publications/marijuana/>

## Marijuana



This page contains AOC publications relating to regulation and taxation of marijuana in Oregon.

In 1973, Oregon became the first state in the Nation to decriminalize certain user amounts of marijuana (1973 Oregon House Bill 2936). In 1998, Oregon became the second state in the Nation to legalize medical marijuana (**1998 Oregon Ballot Measure 67**). In 2014, Oregon became the third state in the Nation to legalize recreational marijuana (**2014 Oregon Ballot Measure 91**).

Marijuana touches on many policy areas in which counties are heavily involved, such as **public health, public safety, land use, governance, and economic development**, to name just a few. AOC and its steering committees are therefore directly involved in marijuana policy in the Oregon legislature. The lead role for AOC is the **AOC Governance Committee** and **AOC Legal Counsel Rob Bovett**.

## Publications

Regulation of Marijuana in Oregon (history, laws, rules, local issues)

\* **PowerPoint** (PDF) (192 slides) (8mb) (last updated September 26, 2017)

Enacted 2017 Oregon Cannabis Legislation (last updated August 22, 2017)

\* **Senate Bill 56** (The Miscellaneous Bill) (2017 Oregon Laws, Chapter 476)

\* **Senate Bill 302** (The Marijuana Offense Bill) (2017 Oregon Laws, Chapter 21)

\* **Senate Bill 303** (The Minor in Possession Bill) (2017 Oregon Laws, Chapter 20)

\* **Senate Bill 1015** (The Hemp Transfer Bill) (2017 Oregon Laws, Chapter 531)

\* **Senate Bill 1057** (The Omnibus Bill) (2017 Oregon Laws, Chapter 183)

\* **House Bill 2197** (The State-Tribal Tax Bill) (2017 Oregon Laws, Chapter 495)

\* **House Bill 2198** (The Medical Bill) (2017 Oregon Laws, Chapter 613)

\* **House Bill 3470** Sections 30-37 (in lieu of **Senate Bill 845**) (The Tax Distribution Bill) (2017 Oregon Laws, Chapter 725)

New Oregon Marijuana Offenses (effective April 21, 2017)

\* **Handout** (PDF) (2 page handout) (172kb) (last updated April 25, 2017)

\* **PowerPoint** (PDF) (34 slides) (1mb) (last updated May 8, 2017)

2016 Oregon Marijuana Laws (selected)

(PDF) (139 pages) (1mb) (last updated April 5, 2016)

Update for the Joint Marijuana Legalization Committee regarding the results and impacts of November 2016 marijuana elections

\* **PowerPoint** (PDF) (18 slides) (1mb) (December 14, 2016)

# AOC

Association of  
Oregon Counties

# Questions?

