



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

July 20, 2016

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Re: Opinion Request OP-2016-2

Dear Mr. Ourso, Mr. Sweet and Capt. Davenport:

You have asked whether a person may possess medical and recreational marijuana plants at the same time. You have also asked whether a person may possess usable marijuana or marijuana products, concentrates or extracts made from medical and recreational marijuana plants at the same time. We refer to the cumulative possession of medical and recreational plants, usable marijuana, marijuana products, concentrates and extracts as "stacking".^{1/} Your questions and our short answers are set out below, followed by our analysis.

FIRST QUESTION PRESENTED

May a person who is permitted to possess and produce marijuana plants under the Oregon Medical Marijuana Act ("Med Mj Act") stack medical *and* recreational marijuana plants? For example, Bob is a 21-year-old medical marijuana patient^{2/} who has registered himself as a grower and his residence as his grow-site with the Oregon Health Authority ("OHA"). May he possess six medical marijuana plants and four recreational marijuana plants at his residence at the same time?

SHORT ANSWER

Yes, a person who may legally possess and produce medical marijuana plants may "stack" medical and recreational marijuana plants. There is nothing in Oregon's marijuana laws that would prohibit a person from "stacking" marijuana plants. The prohibition on marijuana manufacture in the Oregon Controlled Substances Act (CSA) does not apply to persons

authorized to possess marijuana under the Med Mj Act, and the CSA allows possession of marijuana plants in the same number as the new homegrown plant limits allowed under the new recreational marijuana law. Additionally, as explained in more detail below, the new recreational marijuana laws and the Med Mj Act both contain specific provisions disclaiming any intent that one law affects the other.

SECOND QUESTION PRESENTED

May a person permitted to possess usable marijuana under the Med Mj Act stack medical *and* recreational usable marijuana?

SHORT ANSWER

Yes. As with plants, there is nothing in Oregon's marijuana laws that would prohibit "stacking" usable marijuana. The prohibition on marijuana possession in the CSA does not apply to persons authorized to possess marijuana under the Med Mj Act, and the CSA de-criminalizes the possession of a certain number of plants and certain amount of usable marijuana. As noted above and as will be explained in more detail below, the new recreational marijuana laws and the Med Mj Act both contain specific provisions disclaiming any intent that one law affects the other.

THIRD QUESTION PRESENTED

May a medical marijuana patient stack medical and recreational marijuana products, concentrates or extracts?

SHORT ANSWER

No. The Med Mj Act does not set a maximum or minimum amount of a medical marijuana product, concentrate or extract that a person may possess. The new recreational marijuana law allows a person to possess some homegrown marijuana products or concentrates in solid and liquid form (e.g., edibles, infusions and tinctures), but not marijuana extracts. The CSA, on the other hand, limits the amount of certain marijuana products that a person may possess, whether the marijuana products are medical or recreational, homegrown or purchased from a retail licensee. Therefore, there is no basis for allowing the stacking of marijuana products.

ANALYSIS

To answer your questions we have reviewed three areas of Oregon law relating to marijuana. The voters passed Measure 91 in November of 2014.^{3/} Measure 91 provides for the creation of a legal, regulated, and taxed marijuana industry in Oregon. As such it is far-reaching, affecting many different statutory schemes including, indirectly, the Med Mj Act and more directly, the CSA. The 2015 Legislature substantially amended and added to Measure 91, the Med Mj Act and the CSA and made significant changes to other related laws, primarily through HB 3400. In 2016, the Legislature passed a number of marijuana related bills – HB 4014, SB 1511 and SB 1598 – that have some bearing on this analysis.

Measure 91, HB 3400 and other marijuana related provisions passed during the 2015 legislative session have now been codified in ORS 475B, a new chapter covering cannabis regulation. The recreational marijuana provisions are generally found in ORS 475B.005 to 475B.399 and, for purposes of this advice, we refer to these provisions collectively as the “Rec Mj Laws”. The medical marijuana provisions are generally found in ORS 475B.400 to 475B.525 and we refer to these provisions as the “Med Mj Act”. The criminal provisions are generally found in ORS 475 under the Uniform Controlled Substances Act and we refer to these provisions as the “CSA”. To the extent that the 2016 legislation, that has not yet been codified, plays into the analysis, we will call that out. We do, of course, provide precise citations to the relevant provisions in the endnotes.

Your questions require us to interpret the marijuana statutes. Our goal in interpreting an Oregon statute is to determine the intent of the legislature. *PGE v. Bureau of Labor and Industries (“PGE”)*, 317 Or 606, 610, 859 P2d 1143 (1993). We start by examining the text and context of the statute, with the text being the best evidence of legislative intent. *Id.* In interpreting the text, we apply statutory and judicial rules of construction that “bear directly on how to read the text,” such as “not to insert what has been omitted, or omit what has been inserted,” and that “words of common usage typically should be given their plain, natural and ordinary meaning.” *Id.* at 611; ORS 174.010. Even if the legislature’s intent seems clear from text and context, we may examine and give limited consideration to legislative history, to “illuminate” that intent or to show “that superficially clear language actually is not so plain at all – that is, that there is a kind of latent ambiguity in the statute.” *State v. Gaines*, 346 Or 160, 172-73, 206 P3d 1042 (2009). A statute’s context “includes other provisions of the same statute and other related statutes, as well as the preexisting common law and the statutory framework within which the law was enacted[.]” *Denton and Denton*, 326 Or 236, 241, 951 P2d 693 (1998) (internal citations omitted). We interpret ballot measures in the same way. *Burke v. State ex. rel. DLCD*, 352 Or 428, 432, 290 P3d 790, 792 (2012) (Court will apply the same method of statutory analysis to a voter initiative as it would to a legislatively enacted statute).

It is worth noting at the outset that only a person who can lawfully possess medical marijuana in some form, and who is over 21, could “stack” medical and recreational marijuana. If a person does not have a medical marijuana card, or is not a designated caregiver or grower for a person with a medical marijuana card, then no stacking issue can arise as to that person.

1. The laws that control the regulation and legalization of recreational and medical marijuana

a. The Rec Mj Laws

The Rec Mj Laws establish a regulatory framework for the production, processing, wholesaling and retail sale of recreational marijuana and authorizes OLCC to regulate the licensing for these activities.^{4/} OLCC is charged with licensing marijuana producers, processors (makers of, for example, concentrates, extracts, edibles), wholesalers, retailers and laboratories. The Rec Mj Laws also allows a person 21 or over, without an OLCC license, to produce, make, possess, and store marijuana items in certain amounts.^{5/}

The amount allowed is not calculated per person, but rather per household. So, per household (assuming the household contains at least one person 21 or over) the following is permitted:

- Production or storage of up to 4 homegrown marijuana plants.
- Possession or storage of up to 8 ounces of usable marijuana, *i.e.* the dried leaves and flowers of the marijuana plant.^{6/}
- Making, processing, possession or storage of up to 16 solid ounces of cannabinoid products.
- Making, processing, possession or storage of up to 72 liquid ounces of cannabinoid products.
- Making, processing, possession or storage of up to 16 ounces of cannabinoid concentrates.
- Possession of up to 1 ounce of cannabinoid extracts purchased from a licensed retailer or registered dispensary.

“Homegrown” means grown by a person 21 or over for noncommercial purposes.^{7/}

A “household” refers to the “housing unit” where a person lives and produces, possesses or stores homegrown and homemade marijuana plants, usable marijuana, products or concentrates.^{8/} By way of example, if you are 21 or over and have 8 ounces of usable marijuana from your homegrown marijuana plants at your household, it would be illegal for you to purchase an ounce of usable marijuana at an OLCC retailer and bring that home because you would be over the personal possession limits.

b. The Med Mj Act

The Med Mj Act addresses possession limits differently than the Rec Mj Laws in two ways. First, the Med Mj Act creates possession limits for mature plants and usable marijuana, but not products, concentrates or extracts. Second, the Med Mj Act ties the amount allowed to the medical marijuana patient herself, not to her residence. To illustrate, a family living together at a residence may have only four recreational marijuana plants regardless of how many family members are 21 or over; whereas, a family with two medical marijuana patients growing for themselves may have twelve medical marijuana plants at their residence, six for each patient.

Because the Med Mj Act was designed to allow marijuana use by people with debilitating medical conditions who might be too ill to care for themselves or produce their own marijuana, the act allows a patient to designate both a caregiver and a grower. Possession limits related to both plants and usable marijuana are ultimately tied to the patient, but if the patient has designated a caregiver then the caregiver may stand in the shoes of the patient when it comes to the possession limits in the Med Mj Act. A patient and her caregiver may *jointly* possess:

- 6 mature marijuana plants.^{9/}
- 24 ounces of usable marijuana.^{10/}

The Med Mj Act is silent as to possession limits for immature marijuana plants, medical marijuana products, concentrates or extracts for medical use.

A patient may designate a grower and a grow site address when she registers for a medical marijuana card.^{11/} The patient may designate herself as the grower, her caregiver or a third party as a grower.^{12/} The grow site can be the patient, caregiver, or grower's residence (household), or can be at an address that is not the designated grower's residence (household).^{13/}

The Med Mj Act allows designated growers to grow for up to four patients with a limit of up to six mature plants per patient.^{14/} There are overall plant limits for medical marijuana grow site addresses, depending on where the grow site is and how long the grower has been a medical marijuana grower.^{15/}

A medical marijuana grower producing marijuana at a grow site address with over 12 mature plants or at a grow site address that is not a patient's residence may possess:

- For indoor growers, up to 6 pounds of usable marijuana per mature plant.
- For outdoor growers, up to 12 pounds of usable marijuana per mature plant.^{16/}

There is no usable marijuana possession limit in the Med Mj Act for a medical marijuana grower producing marijuana at a patient's residence if that grow site has fewer than 12 plants.^{17/}

c. The CSA – the criminal law related to marijuana

The CSA provides that a person 21 or over, who is not an OLCC licensee or a licensee's representative, may be subject to criminal penalties if she possesses:

- More than 4 marijuana plants.
- More than 1 ounce of usable marijuana in a public place.
- More than 8 ounces of usable marijuana.
- More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.
- More than 72 ounces of cannabinoid products in liquid form.
- More than 1 ounce of cannabinoid extract.
- A cannabinoid extract that was not purchased from a marijuana retailer licensed by OLCC.^{18/}

Law enforcement has authority to seize usable marijuana and marijuana products in a person's possession or on the premises where he is arrested "that is apparently being used in violation" of state law pertaining to recreational marijuana licensing and exceptions to the licensing requirements.^{19/}

The CSA does not distinguish between the sources of the recreational marijuana, *i.e.* homegrown or purchased from a licensed retailer. Rather it contains broader, less specific terminology including "usable marijuana", "cannabinoid products" in solid or liquid form,

“cannabinoid concentrates” and “cannabinoid extracts”.^{20/} There is no reference in the CSA or in the statutory definitions it relies on to homegrown, commercial, or as discussed below, medical.^{21/} For example, a person cannot possess at the same time eight ounces of homegrown recreational usable marijuana in addition to eight ounces of usable marijuana that he purchased from a licensed retailer. The CSA only allows for the possession of eight ounces of usable marijuana, regardless of its source.

The CSA does not apply as broadly to possession of medical marijuana because the Med Mj Act specifically exempts possession of medical marijuana under certain circumstances from criminal liability. Under the Med Mj Act, a patient, caregiver or designated grower is exempt from criminal liability if he is found to possess medical marijuana plants and usable marijuana.^{22/} The exemption applies as long as the exempt person does not consume in a public place, drive while intoxicated, give medical marijuana to a person that is not entitled to receive it, and is within the possession limits established by the Med Mj Act.^{23/} As we stated earlier, however, Med Mj Act does not establish a permissible limit for the possession of marijuana products, concentrates and extracts by a patient, caregiver or designated grower.^{24/} Therefore the default possession limits for these items is what is permitted to any individual 21 or over under the CSA.

We conclude that the CSA creates criminal liability for any person over 21 who is not an OLCC licensee and is in possession of *more than* the following:

- Plants in excess of the number allowed under the Rec Mj Laws and Med Mj Act combined for that person and their situation (explained in more detail below).^{25/}
- 1 ounce of usable marijuana in a public place.
- 8 ounces of usable recreational (homegrown or purchased) marijuana in a non-public place.
- 24 ounces of usable medical marijuana if possessed lawfully under the Med Mj Act.
- 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.
- 72 ounces of cannabinoid products in liquid form.
- 1 ounce of cannabinoid extract, or any amount of an extract not purchased from an OLCC licensee or transferred by a medical marijuana dispensary.

2. Stacking of plants and usable marijuana is allowed and stacking of products, concentrates and extracts is not.

We address each form of marijuana individually to answer the question of whether it can be stacked.

a. Marijuana Plants

The Rec Mj Laws and the Med Mj Act contain express provisions that allow a person to possess a specific number of recreational or medical marijuana plants. The Rec Mj Laws set a maximum number of homegrown plants per household, and says nothing about who may or may not be in that household. The Rec Mj Laws make no mention of medical marijuana cardholders. By contrast, the Med Mj Act does reference “who” may possess marijuana plants – the patient,

caregiver or designated producer, but there is no restriction on “who” may be in the residence or grow-site where the marijuana is produced. Neither Act contains text mandating that a person choose between recreational or medical marijuana. The limits are mutually exclusive and are not dependent in any way on the number of plants that a person may possess under either act.

The absence of any connection between the plant limits in the Rec Mj Laws and the Med Mj Act is intentional. Measure 91 expressly provides that it is not intended to amend or affect the Med Mj Act or affect persons acting within the scope of the Med Mj Act.^{26/} The Med Mj Act likewise provides that it is “not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes.”^{27/} The net result is that limits on possession amounts for medical and recreational marijuana are wholly independent of each other – in effect, allowing stacking.

Nothing in the CSA expressly prohibits stacking. The CSA criminalizes possession of more plants than would be allowed under the Rec Mj Laws.^{28/} But it does not impose the same type of express restriction on possession of medical marijuana plants – both because the CSA is silent as to possession of medical marijuana plants and the Med Mj Act expressly exempts possession, delivery or manufacture of medical marijuana items from criminal liability in most cases.^{29/} Nothing in the CSA prohibits a cardholder from possessing four recreational plants per household *in addition to* six medical plants.

There may be a flaw in the statutory structure related to immature medical marijuana plants. Prior to the 2015 legislation, medical marijuana growers were limited to 18 immature plants and 6 mature plants.^{30/} The 2015 legislature eliminated the limit on immature plants – leaving, *by implication*, no limit on immature plants.^{31/} However, the exemption from criminal liability for authorized medical marijuana program participants is limited to possession, delivery or manufacture of marijuana that is “described in ORS 475B.400 to 475B.525.” ORS 475B.515. When the legislature eliminated the limit on immature medical marijuana plants, it also eliminated an express “description” of immature plants as plants that may be possessed. The Legislature’s amendment arguably creates a potential for criminal liability.

We believe that a stronger argument can be made that a grower of immature plants is exempt from criminal liability because “immature” plants are inferentially described in the Med Mj Act. Numerous references are made to the authorized ownership, possession, transfer and reporting of immature plants and seedlings.^{32/} Furthermore, the legislative history of HB 3400 contains at least some testimony that proponents of Ballot Measure 91 asked the Joint Committee to remove limits on immature plants and seedlings because of the realities of agricultural production.^{33/} To produce different strains of marijuana, a grower would need multiple immature plants, making it extremely difficult to cross-breed if constrained by a cap on immature plants.^{34/} The context of HB 3400 and the legislative history strongly indicates that the legislature, in deleting the reference to immature plants, intended this change to help medical marijuana growers, not expose them to criminal liability. We believe the potential for criminal liability is extremely low.

We conclude that stacking of marijuana plants for an individual who is authorized to possess plants under the Med Mj Act is permissible under the CSA, the Rec Mj Laws and Med Mj

Act at certain locations. A medical marijuana grow site properly registered under the Med Mj Act that is also a household (residence) of an individual may have the maximum number of allowable medical marijuana plants *and* four homegrown plants per residence allowed by the Rec Mj Laws.

b. Usable Marijuana

The CSA limits the amount of “usable marijuana” a person over 21 may possess to one ounce in a public place and eight ounces in any other location.^{35/} The Rec Mj Laws allow possession of eight ounces of homegrown usable marijuana per household.^{36/} The Med Mj Act allows a patient (or his designated caregiver) possession of 24 ounces of usable marijuana.^{37/}

The limitation in the CSA precluding possession of usable marijuana in a public place applies both to homegrown or purchased recreational usable marijuana and to medical usable marijuana.^{38/} But, as we discussed above, a patient, or a designated caregiver in possession of usable *medical* marijuana outside of a public place, is exempt from criminal liability.^{39/} Therefore, the CSA cannot criminalize a patient’s possession of usable medical marijuana of up to 24 ounces.^{40/} In other words, a patient could possess at his household 24 ounces of medical usable marijuana plus another eight ounces of recreational usable marijuana, *i.e.* stacking usable marijuana is allowed.

The Med Mj Act and the Rec Mj Laws do not contain any language that prohibits stacking usable marijuana allowances. The Rec Mj Laws do not prohibit medical marijuana patients from also possessing recreational usable marijuana and the Med Mj Act does not limit a patient or designated caregiver to possession of only medical marijuana. Finally, the expressly stated limitation in each Act – to not impact the rights afforded under the other Act – also applies to possession of recreational and medical usable marijuana. Our conclusion is that stacking of usable marijuana is allowed under the Med Mj Act and the Rec Mj Laws, and is not prohibited by the CSA.

c. Marijuana Products, Concentrates and Extracts

We address marijuana products (in solid form, liquid form, concentrates and extracts) collectively because we conclude that they are treated the same for purposes of stacking.

The CSA prohibits possession of:

- More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.
- More than 72 ounces of cannabinoid products in liquid form.
- More than 1 ounce of cannabinoid extract.
- Any cannabinoid extract not produced by an OLCC licensee or an OHA registered processor.^{41/}

The Rec Mj Laws, as discussed above, exempts persons from the licensing requirements in the Rec Mj Laws and essentially allows home production of various marijuana items as long

as the amount stored remains small. Under the licensing exemption provision an individual may possess *homemade versions* of the same products that the CSA allows, except for extracts, as long as they do not exceed the following amounts:

- 16 solid ounces of homemade cannabinoid products at a household.
- 72 liquid ounces of homemade cannabinoid products at a household.
- 16 ounces of homemade cannabinoid concentrate at a household.^{42/}

The Med Mj Act, on the other hand, is silent as to the amount of cannabinoid products, concentrates and extracts that a person may possess.

That silence means that there can be no “stacking” of marijuana products. The issue of stacking can only arise where the law authorizes both medical and recreational forms of the same thing. Since the CSA does not distinguish between medical and recreational marijuana products and the Med Mj Act does not authorize possession of a specific amount of medical marijuana products, the only marijuana products that an individual can possess are those not prohibited by the CSA.

The CSA prohibits stacking of marijuana products by setting the absolute maximum quantity of marijuana products that any individual may possess, regardless of whether the product is homegrown, purchased from a licensed retailer, or transferred by a medical marijuana processor or dispensary.^{43/}

To the extent the Med Mj Act allows possession or production of marijuana products, those items may not be stacked with recreational forms of the same items by any individual. An individual could, however, possess a mix of homegrown and purchased licensed recreational and medical marijuana products, with the exception of extracts, so long as the total amount possessed does not exceed the limits in the CSA.^{44/}

3. Legislative History

We have reviewed the legislative history of the relevant sections of the Rec Mj Laws, the Med Mj Act and the CSA. We find no written or oral testimony that indicates that the legislature even considered the idea of stacking by a patient. The legislature may have been concerned with setting defined limits within the Med Mj Act, but only Representative Olson mentioned that it was intended to fix a “black hole” within the medical marijuana program.^{45/} He did not explain on the record what he meant by a “black hole.” In any event, any mention of the overall criminal limits was made in the context of Rec Mj Laws without any reference to the Med Mj Act.^{46/}

CONCLUSION

An individual, authorized under the Med Mj Act to grow marijuana, and who does so at his home, may stack his mature medical marijuana plants with recreational marijuana plants. In other words, Bob, our 21-year-old medical marijuana patient who is authorized to grow his own marijuana and has designated his home as a grow-site, may possess six mature medical

marijuana plants *and* four recreational marijuana plants. The same conclusion applies to the usable marijuana derived from those plants – Bob may possess at the same time 24 ounces of usable medical marijuana and eight ounces of usable recreational marijuana without risk of criminal liability.

Bob *may not*, however, stack marijuana products that are referred to in statute as cannabinoid products, cannabinoid concentrates and cannabinoid extracts. If Bob possesses a total of these marijuana products that exceed the amount set forth in the CSA, he has committed a crime, regardless of whether the product is recreational or medical.

Sincerely,



Steven A. Wolf
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SAW:nog/DM7542327

c via email only: Judy Giers, DOJ
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^{1/} We note that persons licensed by OLCC or registered with OHA are subject to the rules governing those licenses or registrations that might relate to “stacking” issues.

^{2/} Medical Marijuana Act uses the more unwieldy term “registry identification cardholder.” ORS 475B.410(22).

^{3/} Oregon Laws 2015, chapter 1.

^{4/} ORS 475B.005 to 475B.235.

^{5/} ORS 475B.245 as amended by Oregon Laws 2016, chapter 24, section 36.

^{6/} ORS 475B.015(29) (defining “usable marijuana” for the Rec Mj Act).

^{7/} ORS 475B.015(8).

^{8/} ORS 475B.015(9) and (10).

^{9/} ORS 475B.428(1).

^{10/} ORS 475B.430(1).

^{11/} ORS 475B.415(2)(f); ORS 475B.420(2).

^{12/} *Id.*

^{13/} ORS 475B.420(2)(c).

^{14/} ORS 475B.428.

^{15/} For growers who were not first registered under the Med Mj Act before December 31, 2014, a grow site address can have the following number of plants:

- Within city limits in a residential zone: **12**
- Within city limits but outside a residential zone or outside city limits: **24**.

ORS 475B.428(3).

For growers registered under the Med Mj Act before December 31, 2014 (if all growers at the address meet the criteria) a grow site address can have the following number of plants:

- Within city limits in a residential zone: **48**
- Within city limits but outside a residential zone or outside city limits: **96**.

ORS 475B.428(4).

^{16/} ORS 475B.430(3).

^{17/} The Legislature created a category of medical marijuana grower called “a person designated to produce marijuana by a registry identification cardholder.” ORS 475B.410(18). That category of grower is defined as growing at a grow site with more than 12 plants, or growing at a location other than the patient’s residence. *Id.* It is only this category of grower that can have the larger usable marijuana limits under ORS 475B.430.

^{18/} ORS 475.864(1) as amended by HB 4014, Section 46 (Oregon Laws 2016, chapter 24).

^{19/} ORS 475B.305(1).

^{20/} ORS 475.864 as amended by HB 4014, Section 46 (Oregon Laws 2015, chapter 24). *See also* the definitions for these terms in ORS 475B.015 and ORS 475B.410.

^{21/} *Id.*

^{22/} ORS 475B.475.

^{23/} ORS 475B.475 and ORS 475B.478.

^{24/} We interpret “marijuana” to include “usable marijuana” as a part of the whole marijuana plant, but in dried form. ORS 475B.015(14) and (29) and ORS 475B.410(11) and (23). As a practical matter, the medical marijuana plant, without further processing, is useless if it cannot be converted to, at least, usable marijuana. From the Med Mj Act generally, we conclude the intent of ORS 475B.475 was to make exempt the possession of usable medical marijuana in its reference to “marijuana”.

^{25/} The CSA defines “manufacture” as “production” or “propagation” of a controlled substance. ORS 475.005. Manufacture of marijuana is prohibited under the CSA, ORS 475.856, but the CSA specifically exempts OLCC licensees and persons acting in compliance with the homegrown provisions of the Rec Mj Act. ORS 475.856(2). The Med Mj Act exempts from the CSA persons acting in compliance with the Med Mj Act. ORS 475B.475.

^{26/} ORS 475B.020, ORS 475B.375(1).

^{27/} ORS 475B.400(4).

^{28/} Under ORS 475.864(1)(a), as amended by HB 4014, Sec. 47 (Oregon Laws 2016, chapter 24) it is unlawful to possess “an amount of marijuana plants in excess of the amount of marijuana plants allowed under ORS 475B.245(1)).

^{29/} ORS 475B.428, 475B.430 and 475B.433.

^{30/} ORS 475.320(4)(2014). ((4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Oregon Health Authority.] [(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the authority for each registry identification cardholder for whom the person responsible for the marijuana grow site is producing marijuana..)

^{31/} HB3400, Section 82.

^{32/} See, e.g.. ORS 475B.420(7)(a) and (d)(immature plants that are grown for a cardholder are the cardholder's property and must be transferred to a dispensary if the cardholder requests; ORS 475B.425(cardholder can enter into an agreement with a personal responsible for a grow site some right to possess the cardholders immature marijuana plants); ORS 475B.450(1)(a)(C)(requiring OHA to establish rules dispensary registration system to track and regulate the transfer of immature marijuana plants from the dispensary to the cardholder and caregivers.); ORS 475B.453(1)(e)(requirement that dispensary report to OHA the amount of immature marijuana plants that have been transferred to and from the dispensary.)

^{33/} Written testimony of Jennifer Alexander, resident, Joint Committee on Implementing Measure 91(HB 3400), June 3, 2015; Exhibit 4, Written testimony of Jennifer Alexander, Joint Committee on Implementing Measure 91 (HB 3400) June 15, 2015; Exhibit 7, Oral testimony of Jennifer Alexander, resident, Joint Committee on Implementing Measure 91 (HB 3400), June 15, 2015.

^{34/} *Id.*

^{35/} ORS 475.864(1)(a) and (b) as amended by HB 4014, Section 46 (Oregon Laws 2016, chapter 24).

^{36/} ORS 475B.245(1).

^{37/} ORS 475B.430.

^{38/} ORS 475.864(1)(b) as amended by HB 4014, Section 46 (Oregon Laws 2016, chapter 24).

^{39/} ORS 475b.475 and 475B.478.

^{40/} ORS 475.864(1) as amended by HB 4014, Section 46 (Oregon Laws 2016, chapter 24).

^{41/} *Id.*

^{42/} ORS 475B.255, 475B.443(2) do not allow nonlicensed or nonregistered production of cannabinoid extract.

^{43/} ORS 475.864(1)(c), (d) and (e) as amended by HB 4014, Section 46 (Oregon Laws 2016, chapter 24).

^{44/} *Id.*

^{45/} See, e.g., Talking Points – HB 3400-A, Representative Andy Olson, Floor letter submitted for Third Reading of HB 3400 A-Eng, June 24, 2015, at 1.

^{46/} *Id.* (Describing HB 3400-A as “**Further Reduction of Marijuana Offense Levels** Make them align more with the intent of Measure 91.”); Preliminary Staff Measure Summary, Joint Committee on Implementing Measure 91 (3400-30), June 12, 2015. (Summarizing HB 3400-9 as establishing exemptions for licensees to criminal penalties and modifying classes of criminal violations.)