National Roundtable: What’s Happening in Other Cities

Denver Marijuana Management Symposium
October, 2016
MARIJUANA IN ALASKA (POP. @ 700K)

- Since 1975 Ravin v. State, Alaskans have enjoyed right to privacy to use/possess small amount of marijuana in home
- Between 1982 and 2014, various laws, initiatives, court cases regarding criminalization
- 1998—ballot initiative legalizing medical marijuana—no dispensaries
- 2014—ballot initiative legalizing recreational marijuana (53% yay; 46% nay)
- 10 communities (out of approx. 230) have temporary or permanent ban on commercial marijuana
Marijuana use in Alaska in the last year (2013-2014 surveys):
- ages 12-17: 17%
- ages 18-25: 36%
- ages 26+: 17%

Consistently higher than national percentages by 4-7%
STATE REGULATION

- Marijuana Control Board
  - Department of Commerce, Community, and Economic Development
  - MCB and Alcoholic Beverage Control Board share staff
- 5 members
  - 1 public health seat
  - 1 public safety seat
  - 1 rural seat
  - 1 industry seat
  - 1 industry or public seat
- Staff: ED; 8 admin/licensing; 7 enforcement officers (for both alcohol and marijuana licensing and enforcement)
LOCAL LEVEL – ANCHORAGE (POP. @ 300K)

- Dual-licensing (city license and state license)
- Special land use permit (SLUP)
- Municipal Assembly authorizes license and SLUP
- 1.5 FTE—halftime coordinator; enforcement officer

- Created new land uses in zoning code:
  - Cultivation
  - Manufacturing
  - Testing
  - Retail Store
LAND USE REGULATION DETAILS

- Must be in permanent structure—not in vehicle, trailer, mobile food unit, connex, temporary structure
- Can’t be on a lot with a residential use (except for caretaker’s apartment)
- Can’t be in establishment with liquor license
- Neighborhood responsibility plan required for retail stores
LAND USE REGULATION DETAILS

- Required separation from “protected land uses”—measured by “shortest practicable pedestrian route”
PROTECTED LAND USES

500’ in Bowl; 1,000’ in Chugiak-Eagle River (C-ER)
- School (elementary, middle, high, public, private, boarding, university)
- Child care center (9+ children)
- Homeless and transient shelter
- Habilitative care facility
- Public housing (owned by AHFC)
- Playground
- Dedicated parks in C-ER
- Residential districts in C-ER
- Harry J. McDonald Center in C-ER

500’ everywhere
- Community center
- Neighborhood recreation center
- Athletic field
- Religious assembly
- Correctional institution
- Correctional community residential center

100’ everywhere
- Video arcade
MOA LICENSING REGULATIONS OVERVIEW

- Municipal licensing regulations based on state regs
- Regulations regarding testing, reporting, transportation, health and safety, handler’s permit, public access, security, video surveillance, waste disposal
MUNICIPAL APPROVAL PROCESS

- Takes about 75 days from application submittal to public hearing before the Municipal Assembly
- Required community meeting with mailed notice to residents and property owners within 500 feet of proposed location
- Combined application for license and special land use permit
- After approval, need successful inspection before operations can begin
REVENUES

- State: $50 per ounce collected from cultivator (set by ballot initiative)
- MOA receives half of state application and application renewal fee
- Anchorage voters approved 5% sales tax on marijuana and marijuana products
- Municipal Assembly may adjust every two years, by not more than 2%, not to exceed 12%
- Tax revenues not allocated to any specific use
- No research funding
CURRENT STATUS IN ANCHORAGE

- 10 cultivation facilities approved
- 2 testing facilities approved
- 3 retail stores approved
- 1 testing facility is operational
LESSONS LEARNED/UNRESOLVED ISSUES

- Without existing medical marijuana dispensaries, slower start—two years since vote
- Dual licensing brings more local control, but needs more coordination with state to avoid duplication
- 3 testing labs proposed to date—two in Anchorage, one in Juneau
- No coordinated data collection plan
- Social consumption
If you have questions or would like more information, please feel free to contact me:

- mcconnelleb@muni.org
PORTLAND OREGON

- Landscape – 145.1 Sq. Miles
- Household median income – $53,230
- Per capita income – $32,438
- Top 4 Industries
  - Durable-goods Manufacturing
  - Professional/Business Services
  - Finance, Insurance, Real Estate
  - Trade
- 36% of Med Dispensaries in Oregon located in Portland
- Recreational Market opened 10/01

The recreational market is in its infancy. The State began issuing recreational marijuana retailer licenses starting Oct. 1.
HISTORY

Med. Reg. Program Established
1st City Policy Advisory Group
Rec. Marijuana Legal in OR
End Marijuana prohibition
PDX Marijuana Code Adopted
PDX Starts Accepting MRL Apps.
MPOT Convened

MISSION

In partnership with our community and the marijuana industry, to lead Portland’s marijuana policy development to ensure the safety and livability of our neighborhoods, and to support economic development for Portland businesses.
PROGRAM FOCUS

- Regulation through City Code: Collaborative enforcement providing expectations to support the legal industry, address illegal markets, and mitigate the potential for harmful impacts.

- Partnership with the state and our community, including Portland constituents and the marijuana industry, to shape policy.

- Adapting to realities on the ground as the marijuana landscape, and the needs of our City, continue to change
PROGRAM STRUCTURE

Marijuana Policy Program

- Policy & Public Involvement
- Licensing & Education
- Code Compliance
LICENSING REQUIREMENTS

- Minimum Standards
- Regulatory Compliance
- Safety & Livability

State covers applicant background, product safety, and finances. Security is part of both state and local regulations, but can be waived at the state level because uniform standards are not feasible in addressing urban, coastal, and rural jurisdiction needs.
# LICENSURE

## APPLICATIONS/LICENSES

- **Total Apps:** 487
- **Lic. Approved:** 96
- **Lic. Denied:** 21

Most applications pending approval are incomplete; some are in process of approval (review, verification, inspection, etc.).

## INSPECTIONS

- **Total Inspects.:** 271
- **Passed:** 138
- **Pending Inspect.:** 33
LESSONS LEARNED

- Explore pros/cons in considering a pathway to regulate marijuana events
- Increase cross agency coordinated enforcement
- Strengthen community capacity to engage in policy decision making
LOOKING AHEAD

• **Recreational Marijuana Delivery** in Portland
• **Youth access prevention**: Increase collaboration with the county, state and CBOs to mitigate issue
• **Social Consumption** (not PUBLIC consumption) in Portland, including events and lounges/cafes
• **Other issues**: as State policies change and recreational retailers begin becoming licensed by the State and the City, and as Portland’s marijuana industry continues to grow and change
City of Seattle
Cannabis Legislation

David B. Mendoza, Senior Policy Advisor
Mayor’s Office of Policy and Innovation
October 2016
Cannabis Regulation in WA
Prior to Full Legalization

- **Medical Use of Marijuana Initiative 692 (1998)**
  - Did not "legalize" - created an "affirmative defense"

- **Seattle Initiative 75 (2003)**
  - Requires that: "the Seattle Police Department and City Attorney’s Office shall make the investigation, arrest and prosecution of marijuana offenses, when the marijuana was intended for adult personal use, the city’s lowest law enforcement priority."

- **WA Senate Bill 5073 (2011)**
  - Legalized authorization, use and possession by patients and providers who voluntarily registered with a database maintained by Department of Health.
  - Provisions for collective gardens, licensed growers, licensed processors, and licensed dispensaries.
  - Governor Gregoire section-item vetoed vast majority of this act effectively leaving only an affirmative defense and “collective garden” for patients in place.
Recreational and Medical Legalization

- **Initiative 502 (2012)**
  - Three-tiered system: producers, processors, & retailers
  - 25% excise tax at each transaction between tiers
  - 1000 foot buffer zones around schools, daycares, parks, playgrounds, recreational centers, arcades, public transit centers.
  - Restrictions on advertising and signage
  - Testing and labeling requirements

- **WA Senate Bill 5052 and House Bill 2136 (2015)**
  - Merged medical and recreational MJ
  - Eliminated collective gardens (as of 7/1/16)
  - Allows for registered patient cooperative grows
  - Created authorization database and arrest protection and higher level of possession for those registered
  - Collapsed tier excise tax into end-user 37% tax
  - Gave local authorities ability to reduce buffer zones as low as 100 feet
State of the Seattle Market
2014 - 2015

• **502**
  • Maximum of 21 retail locations, many still not open
  • Some producer/processors in operation, many in licensing process

• **Non-502 – (Approximate)**
  • 118 storefronts (August 2015)
  • Increase from 45 storefronts in December 2012.
  • Dozens of delivery services
  • Both stores and delivery services advertising in weekly papers and online
Enforcement Resolution

**Tier 1:**
- Distributing or delivering marijuana or marijuana infused products directly to anyone under 21 years old or people other than qualifying patients.
- Under law enforcement investigation for criminal violations or public safety concerns.
- Manufacture or distribute products that mimic trademark protected products or are otherwise appealing to children.
- Operating without a business license or with a business license obtained after January 1, 2013.

**Tier 2:**
- Violation of City building, fire, or other codes.
- Engaged in delivery services of marijuana for medical purposes.
- Allow consumption of marijuana or marijuana infused products on their premises.

**Tier 3:**
- Distributing marijuana that has not undergone microbial and potency testing.
- Located within 500 feet of another licensed or unlicensed marijuana establishment or are within 1000 feet of a school or playground.

**ENFORCEMENT PREFERENCE**
- City agencies will favor civil remedies to address compliance.
- Criminal sanctions may be imposed if civil remedies fail to gain compliance.
Regulatory Business License

• Limited to only those businesses that have received a license to produce, process or distribute marijuana by the WA State Liquor and Cannabis Board (LCB).
  • LCB rules for marijuana businesses would be incorporated in a way to allow the City of Seattle to enforce.

• Non-state-licensed marijuana establishments in compliance with MUCA and enforcement guidelines allowed continue to operate without a regulatory license until July 2016.
  • *Exemption only extended to those that opened before 1/1/13.*
Implementation and Enforcement

• Upon passage of legislation FAS, wrote and/or visited 69 storefront dispensaries requesting them to close by September 16, 2015.

• Prior to September 16, 2015, FAS Inspectors visited 8 dispensaries and were able to purchase medical marijuana without a medical authorization at 3 locations.
  • After September 16th, FAS obtained search warrants and seized marijuana products from 3 locations.
  • FAS led seizures with support of two uniformed SPD officers. Neither owners nor employees were arrested or detained. Owners faced misdemeanor charges, reached settlement with CAO by agreeing to end their businesses and allow SPD to destroy seized product.
  • April 2016: FAS and SPD conducted a buy/bust resulting in the purchase of marijuana by delivery from 7 services, misdemeanor charges have been filed.

• By of July 2016:
  • All Non-WSLCB licensed storefront businesses had closed without a single arrest or criminal charge being filed.
Current State of the Seattle Market

• Medical and Recreational Market
• 39 retail locations now open
• 9 retail locations pending
• 73 producer/processors
• 25 pending producer/processors
• 76 non-Seattle businesses who sell product in the City

• Illicit Market
• All storefronts were closed or converted to state licensed location by early July 2016.
• 38 delivery services advertising online
• 7 delivery services – misdemeanor charges filed – City Attorney seeking settlements
• Weekly papers and Leafly have banned advertising. Craigslist listing have declined.
Land Use Legislation - Buffers

• Existing State buffer is 1000 feet from sensitive uses.
• HB 2136 allowed local jurisdictions to lower buffer to 100’.
  • Except 1000 feet from schools and playgrounds must be maintained.
• City Ordinance:
  • Lowered buffer to 500 feet in most cases.
  • Lower buffer to 250 in select downtown zones
Sensitive uses

- No Change: Schools and Playgrounds (1000’)
- General reduction from 1000’ to 500’
  - Child care centers
  - Game arcades
  - Libraries
  - Public Parks
  - Transit Centers
  - Recreation centers or facilities
1000’ Buffer
5,150 gross acres
of estimated
allowed areas

500’ Buffer
6,800 gross acres
of estimated
allowed areas

City of Seattle
Existing Marijuana Business Locations and Estimated Allowed Area
for Marijuana Businesses
Under Zoning Restrictions and
Potential City Licensing Requirement

Existing Regulations
- 500’ / 1,000’ Buffer for Existing State, Licensed Retail Locations
- 500’ / 1,000’ Buffer for Existing Medical Locations
- Areas Potentially Not Allocated
  - Under City Licensing
  - Estimated Allowed Areas (5,150 gross acres)

500’ Option
- 500’ / 1,000’ Buffer for Existing State, Licensed Retail Locations
- 500’ / 1,000’ Buffer for Existing Medical Locations
- Areas Potentially Not Allocated
  - Under City Licensing
  - Estimated Allowed Areas (6,800 gross acres)

Licensing Option Descriptions
Under this option, the City would not issue a license if the location was within 1,000 feet of the perimeter of the grounds of any of the following within:
- Childcare Center
- K-12 Public School
- Public Park
- Library

Under City Licensing
- Estimated Allowed Areas (5,150 gross acres)
- Estimated Allowed Areas (6,800 gross acres)
Retail Stores: Dispersion

- Two stores can be within 1000’ of each other. A third store must be 1000 feet from both of the first two stores.
- Date to check for dispersion and for Land Use Code buffering is date LCB notifies City of application (Local Authority Notice date).
- Stores licensed/permitted by State/City may be “grandfathered” to Land Use Code.
- Measurements are property line to property line.

STORE #1 100 FEET STORE #2 1000 FEET STORE #3
1100 FEET
State Legislative Advocacy

• In the 2016 WA legislative session, the City of Seattle helped develop and advocate for:
  • HB 2494 – Reforming Marijuana-Related Penalties
    • Would have reduced adult possession of marijuana that exceeded 1 ounce and was less than 2 ounces from a felony to misdemeanor
    • Would have legalized non-commercial transfers of up to .5 ounce in a 24 hour period
  • HB 2368 – Marijuana Delivery Pilot Project
    • Proposal have created a legal marijuana delivery service in the City of Seattle
  • SB 6375 – Marijuana Clubs
    • If passed, would have allowed local jurisdictions to create and regulator “marijuana clubs” that would have allowed individuals to consume marijuana on the premises.
Questions?

david.mendoza@seattle.gov