

Corum Ketchum

From: Courtney Osborn <osborn@bljlawyers.com>
Sent: Wednesday, June 29, 2022 4:42 PM
To: Corum Ketchum; Nicholas Green
Cc: Jeremy Green; Niki Grieve; Dustin Hawkins; Garrett Chrostek
Subject: Psilocybin Legislation and Opt-Out Ordinance - Our File No. 15264-299

Good afternoon,

My name is Courtney Osborn and I am one of Jeremy Green's associates. As you may be aware, Ballot Measure 109 ("M109") passed in November 2020 directing the Oregon Health Authority ("OHA") to license and regulate the manufacture, transportation, delivery, sale, and purchase of psilocybin products. This email provides a brief summary of M109 and its impact on municipalities. This email only addresses information available as of the date of this email and should not be considered an exhaustive discussion of Oregon psilocybin legislation.

Background

1. M109, referred to as the Psilocybin Services Act (the "Act") and now codified as ORS chapter 475A, permits licensed "therapists" to use psilocybin to treat chronic mental illness. The Act is very similar to Oregon's Cannabis Legalization Act and generally allows the administration and consumption of psilocybin (a) at a licensed "psilocybin service center," (b) under the supervision of a licensed "psilocybin service facilitator."
2. The Legislative Assembly will have control over licensure for the manufacture and/or sale of psilocybin. As such, a city or county will have no authority to grant local licenses or impose an additional tax and/or fee on the manufacture or sale of psilocybin products. The OHA will begin accepting applications for licenses related to psilocybin services beginning January 2, 2023.
3. The Act presumes all cities and counties are "opted in" to permitting psilocybin services. Cities and counties that desire to prohibit the establishment of psilocybin-related businesses may do so by referral as early as the **November 8, 2022** election. If a city or county chooses not to refer the "opt-out" option to voters this November, it will not have another opportunity to do so until the next statewide general election in 2024. If the voters elect to prohibit psilocybin services this November, the governing body must provide the text of the prohibiting ordinance to OHA. Upon receipt of the ordinance, OHA will discontinue licensing those premises to which the prohibition applies.
4. As of now, the OHA Rules Advisory Committee has adopted a first set of rules related to psilocybin products, testing, and training programs. A second set of rules will not be released until November 2022. The final rules needed to implement the Act must be adopted by December 31, 2022.

Ballot Title Referral Process

1. As you are aware, a city or county desiring to refer a ballot measure must follow certain procedures set forth by Oregon election law. While these procedures vary depending on the city or county, generally the ballot referral process is as follows:
 - (a) Staff prepare and submit a ballot title to the governing body in time for the governing body to review, comment, and approve the ballot title (we generally recommend this is done no less than 30 days prior to the date the ballot title must be filed with the local election official);

(b) Upon approval, the governing body, by resolution, adopts the ballot title and calls for the measure to be referred to the voters;

(c) The ballot title is filed with the election official 81 days prior to the election (as specified below);

(d) The election official publishes notice of the ballot title in the next available edition of a newspaper of general circulation in the city/county;

(e) Any dissatisfied voter has seven business days to petition the circuit court for review of the ballot title; and

(f) Once the seven-day challenge period has expired, the governing body (or an individual designated by the governing body) files the ballot title (and explanatory statement, if applicable) with the county elections official.

2. For placement on the November 8, 2022 ballot, a city or county must file an approved ballot title for publication of notice with the local election official no later than **August 19, 2022**. Any dissatisfied voter(s) have 7 business days to petition the circuit court for review of the ballot title. Once this challenge period expires, the city or county must file a notice of measure election with the elections official containing the final ballot title and certifying the challenge process is complete **by September 8, 2022**.

3. If your city or county is interested in adopting a psilocybin opt-out ordinance for referral on the November 2022 ballot, I recommend passing a resolution to refer the ballot title to voters by mid to late July to ensure the required election deadlines (discussed above) are met.

If you have any questions regarding psilocybin legislation, please do not hesitate to contact me. I anticipate some of you will be interested in adopting a psilocybin opt-out ordinance for referral on the November 2022 ballot. Thus, time is of the essence. Please let me know by next **Friday, July 8**, if you would like our office to take an active role in the development and referral of an opt-out ordinance for your city/county.

Thank you and I hope this email finds you well.

Courtney E. Osborn *Attorney*

osborn@bjlawyers.com | P 541-382-4331 | F 541-389-3386 | 591 SW Mill View Way, Bend, OR 97702 | www.bjlawyers.com



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