



Legal Weed is Coming! Are We Ready?

[Oregon may vote to legalize recreational marijuana in 2014. As the drug war winds down, we explore Oregon's current cannabis landscape.](#)

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Lori Duckworth flipped the “open” sign on the Southern Oregon Cannabis Community Center. It was a crisp, sunny, get-things-done day last May in the SOCCC’s historic building in downtown Medford. She, a staffer, and a quartet of volunteers had farm inspections to do, plus a long list of errands for the memorial service of one of the center’s members—a veteran—who had recently died. And, of course, medical cannabis patients would come in for their doctor-prescribed doses, as they had for more than four years.

Then, on security cameras, she saw the police officers clustering at the front and back doors. “I heard a voice say, ‘Medford police department, we have a warrant,’” she recalls. “I went to the lobby, greeted them, and said I wanted to speak to my attorney.”

The longtime health professional, 48, and her husband, Lee, 49, found themselves in handcuffs, arrested by the Medford Area Drug and Gang Enforcement unit (MADGE) and charged with 22 felony counts each of criminal conspiracy, including intent to sell cannabis. They spent the next seven days in the Jackson County jail, awaiting a bail hearing as the hours of a long holiday weekend and a state furlough day ticked by.

Operation Store Front—a two-year effort involving 70 state, county, and city officers, according to local news reports—allegedly seized 11 pounds of marijuana from the center. Lori Duckworth’s initial bail was set at \$550,000—six times as high as that of a person arrested for robbery, strangulation, and assault that same week. Prosecutors said that officers engineered undercover, illegal purchases of “small amounts” of cannabis sales that went beyond what the state medical law allows. Duckworth counters that the 11-pound claim is wrong, and that she and SOCCC staff closely followed state law. The couple is scheduled to go to trial in July—conceivably, as some of the final casualties in a drug war that goes back to 1935, when marijuana first was made illegal in Oregon.

If polls are any indication, Oregon is poised to become the third US state to institute “adult social cannabis regulation”—otherwise known as legalizing marijuana. In November, voters are all but certain to see a legalization ballot measure, put forth by the Oregon State Legislature or through signatures gathered for an initiative—or both. In the meantime, on March 3 Oregon’s 16-year-old medicinal marijuana laws will, for the first time, allow for state-registered dispensaries (officially “medical marijuana facilities,” according to HB 3460). This new law replaces a system that left those who provide marijuana to the state’s 60,516 registered medical cannabis patients in limbo, neither allowed to sell for profit under state laws nor explicitly banned from existing.

After three years as a drug policy writer, covering places as varied as New Mexico and Belgium, I toured the Beaver State’s current cannabis landscape to preview the probable post-legalization era. I encountered a typically Oregon mix of the progressive, reactionary, and pragmatic. In the Rogue Valley, even as Duckworth awaited a trial that could deliver six years to life in jail for each charge, the cannabis crop was growing so robustly that I could smell it from I-5 by Grants Pass. In The Dalles, I met a mom who, out of frustration with the Just Say No era, founded a drug education group 30 years ago that now helps patients navigate the state medical cannabis process. In Southeast Portland I toured a “farm-to-bowl” medicinal marijuana small-business incubator: a perfectly Portlandian distribution model for the future. Two miles away in a downtown high-rise, I watched a legal team craft a law that a nationally funded pro-legalization political action committee will take to voters if the Oregon legislature fails to put its own measure on the ballot.

Cannabis is already among America’s most lucrative crops. Harvard economist and Cato Institute fellow Jeffrey Miron estimates that the national pot market would amount to \$20–30 billion if taxed and regulated. (Only corn and soybeans gross more, according to federal statistics.) And when law enforcement in California’s Mendocino County seized 600,000 plants in a 2010 raid, officials estimated that the haul constituted 10 percent of the county’s crop. Extrapolate from there, and it’s possible that county alone produces \$6 billion of weed a year.

A Gallup poll last October showed 58 percent of Americans in favor of legalizing the plant, up from 50 percent a year earlier—Oregonians were at 63 percent in another 2013 poll. Even traditionally conservative states like Arizona, Missouri, and Kentucky are polling with majorities supporting the end of this particular battle in the war on drugs. Forty percent of Colorado Republicans voted to legalize cannabis in the 2012 election.

Change is coming. Whether the change comes fast enough to help Lori and Lee Duckworth, however, remains to be seen.

After 23 years working in elder care and as an administrator for companies including Sun West and Asante Health Care Corporation, Lori Duckworth opened SOCCC in the heart of Medford, a block away from the James A. Redden Federal Building. “We served 4,200 patients,” says the petite mother of four and grandmother of three, youthfully dressed in blue jeans and Ugg boots. “And we provided more than cannabis—we were a food and clothing bank.” Among the patients were local residents of federally subsidized housing who, because federal law still prohibits possession of cannabis, can’t medicate at home.

Caitlin Conrad, who has covered the Duckworth case as a field reporter, anchor, and producer at Medford's KTVL CBS affiliate, says Duckworth is regarded by many locals as "someone who followed the rules, someone, in fact, who would routinely speak out against cannabis farmers if she believed they were operating outside of the law." The farm inspections planned on the day of the police raid, Duckworth says, were actually part of the center's efforts to ensure its cultivators were complying with state law.

"The public has been supportive," Duckworth's Medford-based attorney, Justin Rosas, says. "Society is tired of these raids and these tactics. If that doesn't help Lori, I'd be very surprised. We're seeing that Tea Partiers and progressives have come to the same view about drug policy."

Indeed, Tina DeAvilla, a beauty shop owner in this former timber town of 76,000 (the health care industry dominates today) who describes herself as a "very conservative Christian," told me that, for her, the Duckworth case marks a tipping point. "The consensus is that our region is spending a lot of money on these kind of things when there are bigger issues to take care of," says DeAvilla. "I believe Lori's indictment is changing public opinion in the Rogue Valley on cannabis legalization."

Federal law still prohibits the distribution and sale of cannabis. But last August, Attorney General Eric Holder and the Justice Department announced that states which unilaterally legalize the plant will not face federal intervention, provided they follow what legalization advocates now call the "eight points of light"—such rules as preventing the diversion of cannabis from legal to nonlegal states and keeping the plant away from kids.

The Jackson County deputy district attorney assigned to the Duckworth case, Paul Moser, didn't return a request for an interview. Medford Police Chief Tim George declined to comment. But Josephine County Sheriff Gil Gilbertson, whose staff participated in the SOCCC raid, concedes that the days of cannabis raids in his jurisdiction are numbered, if not over, at a time when he can afford only two deputies to cover a county the size of Rhode Island. "We have nothing to do with marijuana," he says. "We can only deal with life-threatening situations. If someone calls us on a burglary, we have to say, 'Sorry, we'll take your information.'"

If (or when) Oregon does legalize marijuana, the 100-year-old Engine No. 23 Firehouse on SE Seventh Avenue in Portland—now called "Cannabliss"—exemplifies what a future bud shop might look like. Founded by Matt Price, 28, and steps away from an acupuncture clinic and physical therapy practice, the club offers dozens of varieties of the plant, from Super Silver Haze (a sativa strain) to Royal Purple Kush (an indica) to "edibles" and tinctures of the plant.

Strolling past an indoor skylight that covers the hole through which firefighters once slid down a pole, Price explains that even with March's change in law, Oregon still will not allow for-profit "sale" of medicinal cannabis. Providers and caregivers will continue to use the word "reimbursement" for the money that changes hands. But instead of providing a space for growers and patients to operate (in exchange for rent and admission fees), as a dispensary Cannabliss will handle the transactions, and Price, in a more clearly defined role, will be able to call his share a salary.

Cannabliss long has benefited from a cordial relationship with Portland police. In 2007, then-police chief Rosie Sizer announced a directive prohibiting officers from assisting federal investigations of state-compliant marijuana operations. Price invited officers to the club the week it opened in 2011. And ever since, “the police have served us like any business in the community,” he says. “Last week a new member said she’d heard about us from a local police officer who’d recommended us as a well-run establishment.”

Price, who dresses business-casual but often sports a hat emblazoned with the Cannabliss logo of two opposing letter c’s, worked for two years in dispensaries in Colorado before moving to Oregon. Cannabliss currently employs nine people, and provides Price a “middle-class income.” Come March 3, he’ll have to pay a new annual registration fee of \$4,000, but welcomes the change. “Now we’ll have clear guidelines and controls,” he says. “It takes a lot of guesswork out of being in what was a gray area.”

Retired federal Drug Enforcement Administration (DEA) Assistant Special Agent in Charge Paul Schmidt, who until 2010 coordinated federal cannabis interdiction operations in Oregon, says he admires cannabis pioneers like Price. “This is a new industry, which is never easy,” he says, noting that under federal law what they do is still illegal. “More power to ’em. They could’ve gotten a knock on the door from us at any time.”

Price has no illusions that legalization is “the pot of gold at the end of the rainbow. It’ll be like building any business,” he says, “a long journey with lots of hard work.”

Ninety-seven miles east of Portland, the Cascades flatten out in Wasco County, where an Oregon-born counterstrike against Reagan’s Drug War surge started in 1981, thanks to angry rural mothers. Local law enforcement invited a freelance drug bounty hunter to town; the operative advertised legitimate jobs in a region struggling with unemployment. He lured half a dozen locals into delivering small amounts of cannabis.

“Those arrests spurred organized protests and legal action that ultimately led to the dismissal of all charges and \$100,000 in payments to the victims,” recalls Sandee Burbank, now 69. The episode of entrapment inspired her and other local women to found the nonprofit Mothers Against Misuse and Abuse (MAMA). “We were a bunch of women who set out to educate the district attorney that this kind of drug policy would not do.”

The organization exists to “educate about all drugs, and how they interact,” according to Burbank, and opened its first medicinal cannabis clinic in Portland in 2005. It now also operates two others, in Bend and The Dalles. Gray hair in a bun and wearing a rainbow-colored, ankle-length dress, Burbank led me into MAMA’s The Dalles location, set on a quiet, tree-lined corner in an old doctor’s office two blocks from the sheriff’s office. The clinic opens weekdays, 9 a.m. to 4 p.m. We visited after closing time to protect patient privacy.

To use a MAMA clinic, patients must first watch an instructional video outlining the lengthy educational process required before even seeing a doctor. Then comes a thick binder of educational literature MAMA has developed over three decades.

“Drug policy must be based on science and harm reduction,” Burbank says. “People must learn not just how the Oregon state cannabis program works, but what cannabis is: How long do its effects last? What are the delivery methods?”

Today the average age of MAMA’s patients is 58. Burbank says many older Oregonians find cannabis works well for reducing pharmaceutical dependence. (In the most recent Gallup poll, Americans older than 65 were the fastest-growing age group supporting cannabis legalization, up 14 percent since 2011.)

Burbank has advocated for legalization since facing down the bounty hunter three decades ago, but she says change “must be accompanied by honest education, in school and in homes. Cannabis can be dangerous, and it can be used responsibly.”

In a conference room at Gard Communications’ third-floor downtown Portland office last October, three legal strategists added final edits to a draft (the 26th) of the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act. Around the table sat Anthony Johnson, executive director of a pro-legalization PAC called New Approach; Dave Kopilak, a business attorney with the Portland-based Crux Law Group; and Bradley Steinman, a cannabis-law-reform advocate and recent graduate of Lewis & Clark Law School. Their goal: craft an initiative palatable to at least 50.1 percent of Oregon voters. During my visit, they checked and rechecked the measure’s language about taxation of cannabis extracts.

A decade-long Portland resident, Johnson believes New Approach’s initiative improves on Washington and Colorado’s legalization efforts, not to mention Oregon’s Measure 80—the 2012 ballot measure that failed 54–46 percent. The soft-spoken 36-year-old former high school offensive/defensive lineman drafted the new initiative with the financial backing of in-state and national drug policy groups, including the late founder of Progressive insurance, Peter Lewis (\$96,000), and the George Soros–underwritten Drug Policy Alliance (\$50,000). His legal team checked with the Oregon Department of Revenue to match wording with existing laws guiding alcohol.

“Our initiative will make the state safer by better prioritizing our law enforcement resources,” Johnson says. “It will create jobs, generating millions of dollars for schools, public safety, and substance-abuse treatment.”

Unlike the 2012 initiative, which offered no limits on possession and cultivation, New Approach’s proposal allows adults to possess up to eight ounces of cannabis and cultivate up to four plants. Producers will be taxed at \$35 per ounce of flowers. (Leaves and immature plants are taxed differently.) Fifteen percent of tax revenues go to state police, 10 percent to city police, 10 percent to county law enforcement, 40 percent to education (via the state’s Common School Fund), and 25 percent to agencies dealing with mental health and substance abuse.

The initiative is a study in political pragmatism. It addresses all eight of the US Justice Department’s “points of light” on its first page. Polling suggests voters don’t like new government agencies, so the initiative calls for regulation by the Oregon Liquor Control Commission (OLCC). Law enforcement would get more than one-third of tax revenue.

“My job if I’m a chief or a sheriff is to make sure my organization has the resources to go forward,” says retired DEA agent Schmidt. “I’m not watching day-to-day enforcement in the street. I’m watching the budget.”

Graham Boyd, former director of the American Civil Liberties Union’s Drug Policy Litigation Project, has been involved in cannabis initiatives since 1996. New Approach Oregon, he says, “represents a very strong team of legal minds working on a responsible initiative at a time of growing voter support for our side of the issue.”

The morning after his legal team’s editing, Johnson bounded up a flight of wooden stairs to drop off the final, 35-page draft of the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act at the office of Portland-based Democracy Resources—“the national leader in ballot qualification,” proclaims the company website. This is the organization that will file the paperwork with the state. The same week, a nationwide poll showed the highest support ever for cannabis legalization. To qualify the measure for the ballot, proponents must gather 87,213 signatures.

“This is a lot of work for something voters might not have to see,” Johnson says with a chuckle. “Signature-gathering is our backup plan. If the legislature steps to the plate during the February session and sends its own legalization question to voters, it’ll save us \$250,000-500,000 in campaigning costs.”

As this magazine went to press, it remained to be seen whether, during the frantic one-month session it holds in even years, the Oregon legislature will craft its own proposal to end marijuana prohibition. “We’ll certainly look at what (New Approach) has put together,” said Sen. Floyd Prozanski, a Democrat who represents south Lane and north Douglas Counties. He believes the legislature should send a measure on November’s ballot that tests voters’ resolve on legalization but then bounces crafting of the details back to lawmakers.

A practicing prosecutor, Prozanski says drug policy “needs to be dealt with in a different setting” than a courtroom. “The drug war is a poor allocation of resources,” he says. “Prohibition wound up creating a criminal economy.” He hopes his Salem colleagues—Republicans included—will “realize it’s better for the legislature to have its voice in how it’s done: fair levels of taxation that will be revenue-positive for the state.” On November 22, Prozanski introduced draft legislation aimed at putting a legalization proposal before voters this year. One way or another, Prozanski declared, “Voters will be asked if they want cannabis legalization in 2014, and I think they’ll say yes.”

OK, imagine Prozanski’s right and ganja becomes as legal as alcohol: will every Plaid Pantry become a pot shop? Not likely. The New Approach initiative would empower the OLCC to “grant, refuse, suspend, or cancel licenses for the sale, processing, or production of marijuana items, or other licenses in regard to marijuana items.” Other sections of the initiative address how and to whom licenses will be granted (and mechanisms for refusal and revocation). Whether this law or a proposal from the legislature goes to voters, any legalization scheme will almost certainly call for a future cannabis industry regulated like alcohol for adult use.

And what then? Will the relative merits of craft-grown sativas and indicas be parsed as blithely as the latest microbrews in Portland and Bend pubs? Prozanski envisions societal acceptance of the plant. “We don’t have a free-for-all with alcohol,” he says. “We have open-container laws, and I can foresee licensed establishments providing cannabis access.”

For Cannabliss’s Price, such a new law would provide certainty: “It would make it a lot easier to operate,” he says. “Starting an industry requires it.”

Retired federal drug agent Schmidt doesn’t foresee an immediate bonanza from legalization. “It’ll take some time for former black-market operators to even learn how to pay taxes, and have willingness to do paperwork,” he says. “Once everything balances out and the industry is accepted as a legitimate one, it will generate revenue.”

For Oregon, legalization holds the promise of \$100 million in annual savings on enforcement and incarceration and new tax revenues, according to Harvard’s Miron in his 2012 study of the implications of federal legalization.

For Medford’s Lori Duckworth, legalization holds hope, though far from a guarantee, of staying out of jail. In Washington, at least, prosecutors began dropping cases as soon as voters passed a legalization measure. “It’s torn our lives apart to be persecuted this way,” she says. “So that nobody else has to deal with this kind of injustice, hopefully cannabis will be legal long before our case ever goes to a jury.”