OFFICE OF THE SECRETARY OF STATE

KATE BROWN
SECRETARY OF STATE

ELECTIONS DIVISION
STEPHEN N. TROUT
DIRECTOR
255 CAPITOL STREET NE, SUITE 501
SALEM, OREGON 97310-0722
(503) 986-1518

For Immediate Release:
February 25, 2011

Contact: Lydia Plukchi
Elections Division
(503) 986-1518

The Office of the Secretary of State received a certified ballot title from the Attorney General on February 24, 2011, for initiative petition #9, proposing a statutory amendment, for the General Election of November 6, 2012.

In addition, Secretary of State Kate Brown determined that the proposed initiative petition was in compliance with the procedural requirements established in the Oregon Constitution for initiative petitions.

The certified ballot title is as follows:

Allows personal marijuana, hemp cultivation/use without license; commission to regulate commercial marijuana cultivation/sale

Result of "Yes" Vote: "Yes" vote allows commercial marijuana (cannabis) cultivation/sale to adults through state-licensed stores; allows unlicensed adult personal cultivation/use; prohibits restrictions on hemp (defined).

Result of "No" Vote: "No" vote retains existing civil and criminal laws prohibiting cultivation, possession and delivery of marijuana; retains current statutes that permit regulated medical use of marijuana.

Summary: Currently, marijuana cultivation, possession and delivery are prohibited; regulated medical marijuana use permitted. Measure replaces state, local marijuana laws except medical marijuana and driving under the influence laws; distinguishes "hemp" from "marijuana"; prohibits regulation of hemp. Creates commission to license marijuana cultivation by qualified persons and to purchase entire crop. Commission sells marijuana at cost to pharmacies, medical research facilities and to qualified adults for profit through state-licensed stores. Ninety percent of net proceeds goes to state general fund, remainder to drug education, treatment, hemp promotion. Bans sales to, possession by minors. Bans public consumption except where signs permit, minors barred. Commission regulates use, sets prices, other duties; Attorney General to defend against federal challenges/prosecutions. Provides penalties. Effective January 1, 2013; other provisions.

Chief Petitioner(s): Douglas Paul Stanford, PO Box 86741, Portland, OR 97286.

Copies of the text of this initiative are available at Suite 501, 255 Capital St NE, for $.25. Written requests for copies with your remittance of $1.00 prepaid, should be addressed to: Elections Division, 255 Capitol St NE, Ste 501, Salem, OR 97310.

There now follows an appeal period of 10 business days. Any elector dissatisfied with the ballot title certified by the Attorney General, who also submitted in a timely manner written comments which addressed the specific legal standards a ballot title must meet, may petition the Supreme Court for a different title. The appeal period ends at 5:00 p.m. on March 10, 2011. The appeal procedures are outlined in ORS 250.085.

The required number of signatures for placement on the 2012 general election ballot is 87,213. These signatures shall be filed in this office not later than July 6, 2012.

# # #

JOHN R. KROGER
Attorney General

MARY H. WILLIAMS
Deputy Attorney General

DEPARTMENT OF JUSTICE
APPELLATE DIVISION

February 24, 2011

Stephen N. Trout
Director, Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310

RECEIVED
2011 FEB 24 PM 2:11
KATE BROWN
SECRETARY OF STATE

Re: Proposed Initiative Petition —Allows Personal Marijuana, Hemp Cultivation/Use Without License; Commission To Regulate Commercial Marijuana Cultivation/Sale
DOJ File #BT-9-11; Elections Division #9

Dear Mr. Trout:

Pursuant to ORS 250.067, we have reviewed the comments submitted in response to the draft ballot title for the above-referenced initiative petition. We provide the enclosed certified ballot title, reflecting changes to the caption, "yes" result statement and the summary.

We received one comment letter from elector D. Paul Stanford (the chief petitioner). This letter summarizes the comment we received, our responses to those comments, and the changes we have made to the draft ballot title. ORAP 11.30(7) requires that this letter is to be included in the record in the event the Oregon Supreme Court reviews this ballot title.

Comments from D. Paul Stanford

In February 8, 2011, letter, elector Stanford objects to the Attorney General's caption, "yes" result statement, and summary. Mr. Stanford objects to use of the term "marijuana" instead of "cannabis" throughout the draft ballot title because "this word [marijuana] reflects the racist lies used to ban this ancient crop." (Stanford 2/8/11 letter, p. 1).

Although the Attorney General agrees that the proposed measure uses the word "cannabis," throughout, Section 4(2) of the proposed measure defines "cannabis as "the flowering tops and all parts, derivatives or preparations of the cannabis plant, *also known as 'marijuana'* containing cannabinoids . . .but does not include 'hemp' as defined by ORS 474.005(5)." (Emphasis added.) So the measure itself equates the terms "cannabis" and "marijuana," and the Attorney General submits that the term "marijuana" is more generally understood by the voting public. *See Kane v. Kulongoski,* 320 Or 273, 275 n 2, 882 P2d 588 (1994) ("We note here that 'cannabis' is the generic scientific name for the hemp plant *more commonly called 'marijuana.'*") (Emphasis added.)

Moreover, current Oregon law, including Oregon's Medical Marijuana Act, ORS 475.300 *et seq.*, uses the word "marijuana" to identify the substance that the law regulates and criminalizes under Chapter 475 of the Oregon Revised Statutes, relating to controlled substances. That chapter expressly defines the term "marijuana," as "all parts of the plant Cannabis family Moraceae[.]" Given that the term "marijuana" is used in Oregon's current statutes and the likelihood of the word's continued use, at least in the context of the Oregon Medical Marijuana Act,[1] the Attorney General rejects the wholesale replacement of the term "marijuana" with "cannabis" in the ballot title, as suggested by elector Stanford. Nevertheless, in the "yes" result statement, we have placed the word "cannabis" in parentheses after "marijuana" to equate the terms in the certified ballot title, lest there be any doubt of the interchangeability of the terms for purposes of the measure.

a. Comments regarding ballot title caption.

Elector Stanford has two comments regarding the Attorney General's draft ballot title. First, Stanford objects to use of the verb "permits" in the caption, as less clear than the verb "allows," because the word "permit" may be used as a noun as well as a verb, but the word "allow" may not be so used. The Attorney General accepts Mr. Stanford's suggested change, and we have amended the ballot title caption to use the word "allows," in place of "permits."

Mr. Stanford's other objection to the Attorney General's draft ballot title caption relates to the ordering in the caption of the two primary subjects of the proposed initiative. As presently written, the draft caption addresses the proposed initiative's provisions regarding personal use and cultivation of marijuana and hemp first, followed by a statement regarding commercial use and cultivation. In his comment letter, Mr. Stanford states: "I believe that the commercial regulation of cannabis is the primary objective, and should therefore be listed first and is of more importance than the limited 'personal' use this initiative would allow." (Stanford 2/8/11 letter, p. 1).

Mr. Stanford may believe that one aspect of the proposed initiative is more important than another. Because the draft caption, as amended, captures both of the primary subject matters of the proposed initiative, and because Mr. Stanford's assertion of priorities is debatable as a legal proposition, we decline to accept or reject it in the context of this ballot title proceeding. *See Greenberg v. Myers*, 340 Or 65, 69, 127 P3d 1192 (2006) (if a proposed measure contains more than one subject, "the caption must identify each subject or, alternatively, use other terms that more accurately convey the scope of the proposed measure.")

To summarize, in response to Mr. Stanford's comments, we have revised the draft ballot title to read as follows:

Allows personal marijuana, hemp cultivation/use without license; commission to regulate commercial marijuana cultivation/sale

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[1] Section 1 of the proposed measure expressly retains Oregon's Medical Marijuana Act.

b. Comments on "yes" result statement.

Elector Stanford has three comments regarding the Attorney General's draft "yes" result statement. First, as with the ballot title caption, Mr. Stanford proposes substituting the word "allow" for the word "permit," and for the reasons stated above, we accept his suggested amendment.

Second, Mr. Stanford objects to use of the term "state stores" in the draft "yes" statement as "inaccurate, pejorative and misleading," and proposes substituting that phrase with "state-licensed stores." (Stanford 2/8/11 letter, p. 2). We accept Mr. Stanford's suggestions, and have revised the proposed "yes" result statement accordingly. To allow for the extra word required by the suggestion, we have replaced "state-licensed" in the reference to marijuana cultivation/sale with the word "commercial," to juxtapose the first part of the "yes" result statement with the second part, which relates to personal cultivation and use.

Finally, Mr. Stanford suggests that the adjective "industrial" precede the word "hemp" in the draft "yes" result statement to better distinguish between the non-psychoactive parts of the cannabis plant and the psychoactive components of the plant. We decline to accept this suggestion, because we believe the respective definitions of "hemp" and "cannabis" adequately explain this distinction, and the term "industrial" may be confusing to some voters.

Therefore, we have revised the draft "yes" result statement as follows:

> **Result of "Yes" Vote:** "Yes" vote allows commercial marijuana (cannabis) cultivation/sale to adults through state-licensed stores; allows unlicensed adult personal cultivation/use; prohibits restrictions on hemp (defined).

b. Comments on summary.

Mr. Stanford raises four objections to the Attorney General's draft summary. First, Mr. Stanford asks that we revise the phrase "prohibits regulation of hemp," to "allows unregulated industrial hemp." (Stanford 2/8/11 letter, p. 2). For the reasons we declined this suggestion to revise the "yes" result statement, we decline to include the word "industrial" in the summary.

Second, Mr. Stanford objects to the summary's use of the word "agency" instead of "commission" – the term used in the proposed initiative. Because the word "commission" appears to be more accurate in this circumstance, we agree and have made that change where appropriate in the ballot title summary. (Stanford 2/8/11 letter, p. 2).

Third, Mr. Stanford suggests that the term "state stores" used in the summary be changed to "state-licensed stores." We agree that the latter phrase is more accurate and have revised the summary to make the suggested change.

Finally, Mr. Stanford objects to that part of the summary which explains that the Attorney General is to defend against legal challenges to the new law, if enacted. According to Mr. Stanford, "This incorrectly leads readers to believe that the State of Oregon will be funding this

work[.]" We respectfully disagree. Although Mr. Stanford is correct that the Attorney General would be reimbursed by the Commission for its legal fees, a separate provision of the proposed initiative, apart from the funding mechanism, requires the Attorney General to "vigorously defend this Act." (Proposed ORS 474.315). Therefore, we decline to make this change suggested by Mr. Stanford.

The ballot title summary is revised to read as follows:

"**Summary:** Currently, marijuana cultivation, possession and delivery are prohibited; regulated medical marijuana use permitted. Measure replaces state, local marijuana laws except medical marijuana and driving under the influence laws; distinguishes "hemp" from "marijuana"; prohibits regulation of hemp. Creates commission to license marijuana cultivation by qualified persons and to purchase entire crop. Commission sells marijuana at cost to pharmacies, medical research facilities and to qualified adults for profit through state-licensed stores. Ninety percent of net proceeds goes to state general fund, remainder to drug education, treatment, hemp promotion. Bans sales to, possession by minors. Bans public consumption except where signs permit, minors barred. Commission regulates use, sets prices, other duties; Attorney General to defend against federal challenges/prosecutions. Provides penalties. Effective January 1, 2013; other provisions.

Conclusion

For the foregoing reasons we have made changes to the draft ballot title. We certify the attached ballot title, pursuant to ORS 250.067(2).

Sincerely,

LSA:mlk/2572696

Enclosure
Lynn Rosik, General Counsel Division

Douglas Paul Stanford
PO Box 86741
Portland, Oregon 97286

BALLOT TITLE

Allows personal marijuana, hemp cultivation/use without license; commission to regulate commercial marijuana cultivation/sale

Result of "Yes" Vote: "Yes" vote allows commercial marijuana (cannabis) cultivation/sale to adults through state-licensed stores; allows unlicensed adult personal cultivation/use; prohibits restrictions on hemp (defined).

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Summary: Currently, marijuana cultivation, possession and delivery are prohibited; regulated medical marijuana use permitted. Measure replaces state, local marijuana laws except medical marijuana and driving under the influence laws; distinguishes "hemp" from "marijuana"; prohibits regulation of hemp. Creates commission to license marijuana cultivation by qualified persons and to purchase entire crop. Commission sells marijuana at cost to pharmacies, medical research facilities and to qualified adults for profit through state-licensed stores. Ninety percent of net proceeds goes to state general fund, remainder to drug education, treatment, hemp promotion. Bans sales to, possession by minors. Bans public consumption except where signs permit, minors barred. Commission regulates use, sets prices, other duties; Attorney General to defend against federal challenges/prosecutions. Provides penalties. Effective January 1, 2013; other provisions.

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