

Pot: Busy week for marijuana bills

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cleared the Senate Tuesday.

It was a busy week for marijuana bills in Salem. Lawmakers also passed a broad bill to regulate the state's existing medical marijuana program and set up the new recreational pot regulatory system.

That legislation, House Bill 3400, also includes a seed-to-sale tracking system for recreational pot and will allow elected officials in cities and counties where at least 55 percent of the electorate voted against Measure 91 to pass bans on recreational and medical marijuana businesses. Brown signed the bill into law this week.

The ballot measure was approved by a majority of voters in Clatsop County and in Astoria, Warrenton, Gearhart, Seaside and Cannon Beach, so the county and city governments would not be able to take



Grosia Wozniacka/Associated Press

Bear Westerlind, an employee at the medical marijuana dispensary Kaya Shack, displays different types of marijuana flowers sold at the shop in Portland. A bill awaiting Gov. Kate Brown's signature would allow dispensaries to sell to recreational customers on Oct. 1.

advantage of the provision in the law.

A third marijuana bill, which will replace the harvest tax on pot in Measure 91 with a 17 percent sales tax intended to generate roughly the same amount of revenue, also passed in

the Senate this week. House Bill 2041 is also awaiting Brown's signature.

"These bills represent a session-long, bipartisan consensus that respects the will of the voters and provides the safeguards and funding necessary to

regulate the recreational marijuana industry in Oregon," Sen. Ginny Burdick, D-Portland, said in a written statement this week. Burdick was co-chair of a legislative committee that drafted the bills.

Senate Minority Leader Ted Ferrioli, R-John Day, said the bills were some of Oregon lawmakers' best work.

"Marijuana advocates have asked, 'Why not just implement the will of the people as outlined in Measure 91, passed by voters in 2014?'" Ferrioli said in a written statement this week. "But making cannabis available for recreational use has been the most complex public policy issue of the decade. I believe the Legislature has done a remarkable job of balancing the interests of recreational users with protections for medical users and respect for local control."

Murder: 26 years

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and do more research before deciding which option to pursue.

The crime

On Sept. 11, 2009, Roseburg businessman and former police officer Brian Brush shot his ex-fiancée, Lisa Bonney, four times with a shotgun. The shooting occurred on the Long Beach boardwalk, in full view of three visiting police officers and other witnesses. Brush was arrested immediately and convicted of first-degree murder and several "aggravating factors" during the subsequent trial.

During sentencing, prosecutors argued that Brush should get extra time because the crime was a case of aggravated domestic violence. Judge Michael Sullivan sentenced Brush to 83 years in prison, with an additional 5 years tacked on for a "firearm enhancement."

In order to convict Brush of aggravated domestic violence, the jury had to find that the killing was part of an ongoing pattern of abuse that involved "multiple incidents over a prolonged period of time."

Before the jurors went into deliberation, Sullivan provided them with excerpts from a widely used document called the "Washington Pattern Jury Instructions" that helps jurors understand how trials work and how to perform their duties. The instructions explained that "prolonged period of time" means more than a few weeks.

Even though the instructions are written and approved by a panel of respected defense attorneys, prosecutors and judges — including a state Supreme Court justice — the trial court's attempt to provide clarity for the jurors ended up invalidating the sentence.

Brush appealed to the state Court of Appeals on several grounds. In 2014, the appeals court rejected most of his arguments, but agreed that Sullivan could have influenced the jurors' decisions by providing the instructions.

In response, the state asked the Supreme Court to review the appeals court decision. The Supreme Court accepted the case and heard arguments in January. According to the opinion

Thursday, "The instruction defining 'prolonged period of time' essentially resolved a factual question for the jury and thereby constituted an improper comment on evidence."

Sentencing scenarios

In Washington state, the standard sentencing range for a person convicted of first-degree murder is 240 to 320 months in prison. But Sullivan believed he was permitted to impose an exceptionally severe sentence because the jury determined there were three "aggravating factors." They are: deliberate cruelty toward the victim during the crime, aggravated domestic violence, and inflicting injuries that exceeded the level of bodily harm typically associated with the offense.

During the hearing, Bonney's family members repeatedly emphasized that the long sentence was one of few small consolations in a terrible ordeal. Speaking to Judge Sullivan, Bonney's father, Gene Klingler, said, "I want him behind bars without parole so that every day of his life he will remember what he did."

Brush, 47 at the time of the murder, spent about three months in Pacific County Jail before being transferred to await his trial in a Washington State Prison near Shelton in January 2010. So far, he has served about 70 months behind bars. Before the Court of Appeals ruling, he was theoretically due for release no later than 2097, at the unattainable age of 135. This amounted to a life sentence.

Unless one or more of the aggravating factors is re-established by the Washington Supreme Court, Brush's sentence would likely be reduced to no more than 320 months — 26 years and 8 months — with credit for time already served. In addition, in Washington state inmates typically receive one-third off their sentences for "good time" — time served without major disciplinary problems. Taking all this into consideration, he could end up being released at the age of about 65, if he is sentenced to the top end of the standard range and has avoided problems in prison.

Fireworks: Police to be in full force this weekend

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Celebrate responsibly

Astoria Police will also be out in full force this weekend.

"The one thing we deal with every year is calls of illegal fireworks or people firing fireworks off late at night," Deputy Chief Eric Halverson said. "We do our best to respond to those complaints."

Shooting off illegal fireworks in Oregon is a class B misdemeanor with a maximum fine of \$2,500 and six months in jail.

Halverson said illegal fireworks are often brought over the Astoria Bridge from Washington state, where the same fireworks are legal. Sometimes people intentionally smuggle the fireworks into Oregon and other times they do not realize the different state laws, he said.

"With all things, if you are going to celebrate, celebrate responsibly," Halverson said. "Make responsible decisions for yourself and the community."



NATALIE ST. JOHN — EO Media Group

One beachgoer climbed on top of his truck to record the deafening spectacle of hundreds of fireworks exploding simultaneously last Fourth of July on the Long Beach, Wash., Peninsula.

Lease: Bones of building still good

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bills as of June 5. As of last month, Smithart also owed the county \$16,000.

Knight said he has run out of patience. But the urge to start eviction proceedings against Smithart, he added, is tempered by the elongated legal process it would entail.

Knight has previously said finding a new operator for the hotel is the preferred outcome. But Smithart is not obligated to transfer his lease to Sonpatki, Knight said, and he could also bring in an investor with less than a 50 percent interest in the hotel without Port Commission approval.

A month ago, the Port Commission agreed to the lease transfer contingent on the debts being paid. The commission also agreed to a \$30,000 yearly reduction in rent, along with a reduction from 10 to 7 percent in the gross revenue the Port

shares in from the hotel.

On the hook

Sonpatki said Param Hotel Group is still trying to work something out with Smithart and hoping for a September opening.

He originally approached the Port in October with an idea to take over operation of the Riverwalk Inn, with a similar model to the several budget hotels Sonpatki's group operates in the Portland metro area.

But Smithart and the Riverwalk Inn are also receiving interest from Chester Trabucco, a former commercial developer in Astoria who invested millions into the Hotel Elliott before selling the property in 2010.

Trabucco said he is interested in the highest and best use of the Riverwalk Inn, adding he has not made any presentations.

"Clearly, you're not starting fresh with a clean palette," Trabucco said.

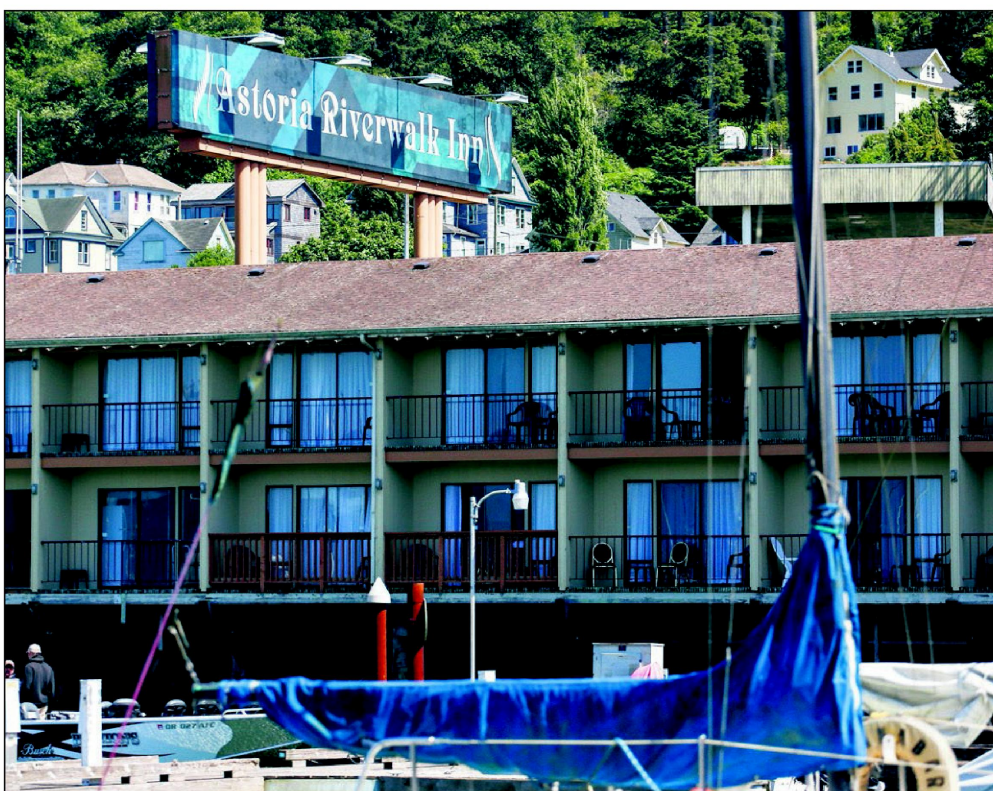
"You have to work with what is there."

But with the right attention to detail, he said, the bones of the building are still good.



EDWARD STRATTON — The Daily Astorian

Hotelier Brad Smithart, who operates Astoria Riverwalk Inn through Hospitality Masters, owes a lot of money to the Port of Astoria, city and Clatsop County.



JOSHUA BESSEX — The Daily Astorian

The Astoria Riverwalk Inn as seen from the West End Mooring Basin Thursday.

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