

Senate Bill 327

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon Criminal Defense Lawyers Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows district attorney to treat unlawful manufacture of marijuana as Class A misdemeanor if less than certain quantity of marijuana is involved.

A BILL FOR AN ACT

1
2 Relating to classification of crimes; amending ORS 161.570.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 161.570 is amended to read:

5 161.570. (1) As used in this section, "nonperson felony" has the meaning given that term in the
6 rules of the Oregon Criminal Justice Commission.

7 (2) A district attorney may elect to treat [*a Class C nonperson felony or a violation of ORS*
8 *475.840 (3)(a) or 475.864 (2)*] **any of the following offenses** as a Class A misdemeanor[.]:

9 (a) **A Class C nonperson felony.**

10 (b) **A violation of ORS 475.840 (3)(a) or 475.864 (2).**

11 (c) **A violation of ORS 475.856 if the quantity involved is no more than that described in**
12 **ORS 475.320 (1)(a) or (4)(a).**

13 (3) [*The election must be made by the district attorney orally or in writing at the time of the first*
14 *appearance of the defendant.*] If a district attorney elects to treat a Class C felony or a violation of
15 ORS 475.840 (3)(a), **475.856** or 475.864 (2) as a Class A misdemeanor under [*this*] subsection[,], (2) **of**
16 **this section, the district attorney shall make the election orally or in writing at the time of**
17 **the first appearance of the defendant.** The court shall amend the accusatory instrument to reflect
18 the charged offense as a Class A misdemeanor.

19 [(3)] (4) If, at some time after the first appearance of a defendant charged with a Class C non-
20 person felony or a violation of ORS 475.840 (3)(a), **475.856** or 475.864 (2), the district attorney and
21 the defendant agree to treat the charged offense as a Class A misdemeanor, the court may allow the
22 offense to be treated as a Class A misdemeanor by stipulation of the parties.

23 [(4)] (5) If a Class C felony or a violation of ORS 475.840 (3)(a), **475.856** or 475.864 (2) is treated
24 as a Class A misdemeanor under this section, the court shall clearly denominate the offense as a
25 Class A misdemeanor in any judgment entered in the matter.

26 [(5)] (6) If no election or stipulation is made under this section, the case proceeds as a felony.

27 [(6)] (7) Before a district attorney may make an election under subsection (2) of this section, the
28 district attorney shall adopt written guidelines for determining when and under what circumstances
29 the election may be made. The district attorney shall apply the guidelines uniformly.

30 [(7)] (8) Notwithstanding ORS 161.635, the maximum fine that a court may impose upon con-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 viction of a misdemeanor under this section may not exceed the amount provided in ORS 161.625 for
2 the class of felony receiving Class A misdemeanor treatment.

3 _____