

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	9 - 0 - 1
Yeas:	Barton, Cameron, Garrett, Krieger, Olson, Shields, Smith J., Stiegler, Barker
Nays:	0
Exc.:	Whisnant
Prepared By:	Shannon Sivell, Counsel
Meeting Dates:	3/16, 4/28

WHAT THE MEASURE DOES: Clarifies that delivery of more than an ounce of marijuana, for no consideration, is a Class C felony, not a Class A felony.

ISSUES DISCUSSED:

- Provisions of the measure
- Fiscal impact

EFFECT OF COMMITTEE AMENDMENT: Replaces the measure.

BACKGROUND: ORS 475.860 provides the following:

- Delivery of Marijuana for consideration = Class B felony (level 4 on the sentencing grid)
- Delivery of Marijuana, less than an ounce, not for consideration = Class A misdemeanor
- Delivery of Marijuana, less than five grams, not for consideration = violation

The gap in the above list signifies where delivering more than an ounce of marijuana, not for consideration, would fall, as a Class C felony and level 2 on the sentencing grid. By defining this crime in statute, HB 2285A ensures consistency in charging and sentencing throughout the state for convictions for delivering more than an ounce of marijuana for no consideration.

When the drug statutes were rewritten in 2005, delivery of more than an ounce of marijuana, for no consideration, was not included in ORS 475.860. As a result, some jurisdictions interpreted the charge as being a Class A felony under 475.840 (1)(a). However, when the Legislative Assembly changed the drug statutes in 2005, delivery of marijuana for consideration was designated as a Class B felony. The reason for excluding this offense from the new statute was not apparent and resulted in the penalty for giving marijuana away being greater than the penalty for selling marijuana. Similarly, some judges have, in examining ORS 475.860, noted this exclusion and determined that delivery of more than an ounce of marijuana, for no consideration, is anything from a misdemeanor to a Class C felony. HB 2285A addresses these inconsistencies.