

# House Bill 3274

Sponsored by Representatives MAURER, TOMEI, THOMPSON, HARKER; Representatives BARKER, BENTZ, BERGER, BRUUN, GARRETT, GILLIAM, GILMAN, GREENLICK, HANNA, JENSON, KOTEK, KRIEGER, OLSON, RICHARDSON, SCHAUFLE, G SMITH, SPRENGER, WEIDNER, Senators BURDICK, KRUSE, METSGER

## 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**.

Directs Department of Human Services to establish and operate marijuana production facility and distribute marijuana to pharmacies for dispensing to medical marijuana cardholders and designated primary caregivers.

Allows pharmacists to dispense marijuana to medical marijuana cardholders and designated primary caregivers.

Disallows private marijuana grow sites.

Imposes tax of \$98 per ounce on marijuana dispensed by pharmacies. Establishes Marijuana Production Facility Fund. Continuously appropriates moneys from fund to department for operation of production facility.

## A BILL FOR AN ACT

1  
2 Relating to medical marijuana; creating new provisions; amending ORS 475.302, 475.306, 475.309,  
3 475.316, 475.319, 475.320, 475.324 and 475.331; repealing ORS 475.304; appropriating money; and  
4 providing for revenue raising that requires approval by a three-fifths majority.

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

6 **SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of ORS 475.300**  
7 **to 475.346.**

8 **SECTION 2. (1) The Department of Human Services shall establish and operate a**  
9 **marijuana production facility that produces all marijuana used by registry identification**  
10 **cardholders. The department shall distribute marijuana produced at the facility to pharma-**  
11 **cies for dispensing to registry identification cardholders and designated primary caregivers.**

12 **(2) The department shall adopt rules:**

13 **(a) Ensuring the security of the facility and plants;**

14 **(b) Establishing a procedure for distribution of medical marijuana to pharmacies;**

15 **(c) Ensuring consistent quality of the medical marijuana produced;**

16 **(d) Establishing recordkeeping procedures for tracking medical marijuana products from**  
17 **the facility to the end user consistent with federal and state guidelines; and**

18 **(e) Ensuring compliance with federal Food and Drug Administration regulations for bo-**  
19 **tanical pharmaceutical production.**

20 **(3) The department shall distribute five percent of the revenue generated by the**  
21 **marijuana production facility to the county in which the facility is located.**

22 **(4) The department shall distribute 2.5 percent of the revenue generated by the marijuana**  
23 **production facility to the municipality closest to the facility.**

24 **(5) The department shall deposit 92.5 percent of the revenue generated by the marijuana**  
25 **production facility in the Marijuana Production Facility Fund established under section 16**

**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 of this 2009 Act.

2 **SECTION 3. (1) Except as provided in ORS 475.342, a pharmacist who dispenses marijuana**  
 3 **to a registry identification cardholder or designated primary caregiver in accordance with**  
 4 **the rules of the Department of Human Services and the State Board of Pharmacy is excepted**  
 5 **from the criminal laws of the state for possession, delivery or production of marijuana, aid-**  
 6 **ing and abetting another in the possession, delivery or production of marijuana or any other**  
 7 **criminal offense in which possession, delivery or production of marijuana is an element.**

8 (2) The board may not subject a pharmacist to a civil penalty or discipline by the board  
 9 for dispensing marijuana to a registry identification cardholder or designated primary  
 10 caregiver in accordance with the rules of the department and the board.

11 (3) A pharmacy or pharmacist may possess marijuana in amounts established by the  
 12 board, in consultation with the department, by rule.

13 (4) The board shall adopt rules establishing requirements and procedures for the dis-  
 14 pensing of marijuana to registry identification cardholders and designated primary  
 15 caregivers.

16 (5) A pharmacist may refuse to dispense marijuana to a registry identification cardholder  
 17 or designated primary caregiver for any reason.

18 **SECTION 4.** ORS 475.302 is amended to read:

19 475.302. As used in ORS 475.300 to 475.346:

20 (1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary  
 21 responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

22 (2) "Debilitating medical condition" means:

23 (a) Cancer, glaucoma, agitation due to Alzheimer's disease, positive status for human  
 24 immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

25 (b) A medical condition or treatment for a medical condition that produces, for a specific pa-  
 26 tient, one or more of the following:

27 (A) Cachexia;

28 (B) Severe pain;

29 (C) Severe nausea;

30 (D) Seizures, including but not limited to seizures caused by epilepsy; or

31 (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

32 or

33 (c) Any other medical condition or treatment for a medical condition adopted by the department  
 34 by rule or approved by the department pursuant to a petition submitted pursuant to ORS 475.334.

35 (3) "Delivery" has the meaning given that term in ORS 475.005. "Delivery" does not include  
 36 transfer of marijuana by a registry identification cardholder to another registry identification  
 37 cardholder if no consideration is paid for the transfer.

38 (4) "Department" means the Department of Human Services.

39 (5) "Designated primary caregiver" means an individual 18 years of age or older who has sig-  
 40 nificant responsibility for managing the well-being of a person who has been diagnosed with a de-  
 41 bilitating medical condition and who is designated as such on that person's application for a registry  
 42 identification card or in other written notification to the department. "Designated primary  
 43 caregiver" does not include the person's attending physician.

44 (6) "Marijuana" has the meaning given that term in ORS 475.005.

45 [(7) "Marijuana grow site" means a location where marijuana is produced for use by a registry

1 *identification cardholder and that is registered under the provisions of ORS 475.304.]*

2 [(8)] (7) “Medical use of marijuana” means the [*production,*] possession, delivery, or adminis-  
 3 tration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive  
 4 benefit of a person to mitigate the symptoms or effects of the person’s debilitating medical condition.

5 (8) **“Pharmacist” means a person licensed as a pharmacist under ORS chapter 689.**

6 (9) “Production” has the meaning given that term in ORS 475.005.

7 (10) “Registry identification card” means a document issued by the department that identifies a  
 8 person authorized to engage in the medical use of marijuana and the person’s designated primary  
 9 caregiver, if any.

10 (11) “Usable marijuana” means the dried leaves and flowers of the plant Cannabis family  
 11 Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed  
 12 in ORS 475.300 to 475.346. “Usable marijuana” does not include the seeds, stalks and roots of the  
 13 plant.

14 (12) “Written documentation” means a statement signed by the attending physician of a person  
 15 diagnosed with a debilitating medical condition or copies of the person’s relevant medical records.

16 **SECTION 5.** ORS 475.306 is amended to read:

17 475.306. (1) A person who possesses a registry identification card issued pursuant to ORS 475.309  
 18 may engage in, and a designated primary caregiver of such a person may assist in, the medical use  
 19 of marijuana only as justified to mitigate the symptoms or effects of the person’s debilitating medical  
 20 condition.

21 (2) A person who is a registry identification cardholder must possess the registry identification  
 22 card when using or transporting marijuana in a location other than the residence of the cardholder.

23 [(3) *The Department of Human Services shall define by rule when a marijuana plant is mature and*  
 24 *when it is immature. The rule shall provide that a plant that has no flowers and that is less than 12*  
 25 *inches in height and less than 12 inches in diameter is a seedling or a start and is not a mature*  
 26 *plant.*]

27 **SECTION 6.** ORS 475.309 is amended to read:

28 475.309. (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or as-  
 29 sisting in the medical use of marijuana is excepted from the criminal laws of the state for  
 30 possession[,] **or** delivery [*or production*] of marijuana, aiding and abetting another in the  
 31 possession[,] **or** delivery [*or production*] of marijuana or any other criminal offense in which  
 32 possession[,] **or** delivery [*or production*] of marijuana is an element if the following conditions have  
 33 been satisfied:

34 (a) The person holds a registry identification card issued pursuant to this section, has applied  
 35 for a registry identification card pursuant to subsection (9) of this section[,] **or** is the designated  
 36 primary caregiver of the cardholder [*or applicant, or is the person responsible for a marijuana grow*  
 37 *site that is producing marijuana for the cardholder and is registered under ORS 475.304*]; and

38 (b) The person who has a debilitating medical condition[,] **and** the person’s primary caregiver  
 39 [*and the person responsible for a marijuana grow site that is producing marijuana for the cardholder*  
 40 *and is registered under ORS 475.304*] are collectively in possession of[,] **or** delivering [*or*  
 41 *producing*] marijuana for medical use in amounts allowed under ORS 475.320.

42 (2) The Department of Human Services shall establish and maintain a program for the issuance  
 43 of registry identification cards to persons who meet the requirements of this section. Except as  
 44 provided in subsection (3) of this section, the department shall issue a registry identification card  
 45 to any person who pays a fee in the amount established by the department and provides the fol-

1 lowing:

2 (a) Valid, written documentation from the person’s attending physician stating that the person  
 3 has been diagnosed with a debilitating medical condition and that the medical use of marijuana may  
 4 mitigate the symptoms or effects of the person’s debilitating medical condition;

5 (b) The name, address and date of birth of the person;

6 (c) The name, address and telephone number of the person’s attending physician; **and**

7 (d) The name and address of the person’s designated primary caregiver, if the person has des-  
 8 ignated a primary caregiver at the time of application[; *and*].

9 *[(e) A written statement that indicates whether the marijuana used by the cardholder will be*  
 10 *produced at a location where the cardholder or designated primary caregiver is present or at another*  
 11 *location.]*

12 (3) The department shall issue a registry identification card to a person who is under 18 years  
 13 of age if the person submits the materials required under subsection (2) of this section, and the  
 14 custodial parent or legal guardian with responsibility for health care decisions for the person under  
 15 18 years of age signs a written statement that:

16 (a) The attending physician of the person under 18 years of age has explained to that person  
 17 and to the custodial parent or legal guardian with responsibility for health care decisions for the  
 18 person under 18 years of age the possible risks and benefits of the medical use of marijuana;

19 (b) The custodial parent or legal guardian with responsibility for health care decisions for the  
 20 person under 18 years of age consents to the use of marijuana by the person under 18 years of age  
 21 for medical purposes;

22 (c) The custodial parent or legal guardian with responsibility for health care decisions for the  
 23 person under 18 years of age agrees to serve as the designated primary caregiver for the person  
 24 under 18 years of age; and

25 (d) The custodial parent or legal guardian with responsibility for health care decisions for the  
 26 person under 18 years of age agrees to control the acquisition of marijuana and the dosage and  
 27 frequency of use by the person under 18 years of age.

28 (4) A person applying for a registry identification card pursuant to this section may submit the  
 29 information required in this section to a county health department for transmittal to the Department  
 30 of Human Services. A county health department that receives the information pursuant to this sub-  
 31 section shall transmit the information to the Department of Human Services within five days of re-  
 32 ceipt of the information. Information received by a county health department pursuant to this  
 33 subsection [*shall be*] **is** confidential and not subject to disclosure, except as required to transmit the  
 34 information to the Department of Human Services.

35 (5)(a) The department shall verify the information contained in an application submitted pursu-  
 36 ant to this section and shall approve or deny an application within thirty days of receipt of the  
 37 application.

38 (b) In addition to the authority granted to the department under ORS 475.316 to deny an appli-  
 39 cation, the department may deny an application for the following reasons:

40 (A) The applicant did not provide the information required pursuant to this section to establish  
 41 the applicant’s debilitating medical condition and to document the applicant’s consultation with an  
 42 attending physician regarding the medical use of marijuana in connection with such condition, as  
 43 provided in subsections (2) and (3) of this section;

44 (B) The department determines that the information provided was falsified; or

45 (C) The applicant has been prohibited by a court order from obtaining a registry identification

1 card.

2 (c) Denial of a registry identification card *[shall be considered]* is a final department action,  
 3 subject to judicial review. Only the person whose application has been denied, or, in the case of a  
 4 person under the age of 18 years of age whose application has been denied, the person's parent or  
 5 legal guardian, *[shall have]* **has** standing to contest the department's action.

6 (d) *[Any]* A person whose application has been denied may not reapply for six months from the  
 7 date of the denial, unless *[so]* authorized **to reapply** by the department or a court of competent ju-  
 8 risdiction.

9 (6)(a) If the department has verified the information submitted pursuant to subsections (2) and  
 10 (3) of this section and none of the reasons for denial listed in subsection (5)(b) of this section is  
 11 applicable, the department shall issue a serially numbered registry identification card within five  
 12 days of verification of the information. The registry identification card *[shall]* **must** state:

13 (A) The cardholder's name, address and date of birth;

14 (B) The date of issuance and expiration date of the registry identification card;

15 (C) The name and address of the person's designated primary caregiver, if any; **and**

16 *[(D) Whether the marijuana used by the cardholder will be produced at a location where the*  
 17 *cardholder or designated primary caregiver is present or at another location; and]*

18 *[(E)]* (D) Any other information that the department may specify by rule.

19 (b) When the person to whom the department has issued a registry identification card pursuant  
 20 to this section has specified a designated primary caregiver, the department shall issue an identifi-  
 21 cation card to the designated primary caregiver. The primary caregiver's registry identification  
 22 card shall contain the information provided in paragraph (a) of this subsection.

23 (7)(a) A person who possesses a registry identification card shall:

24 (A) Notify the department of any change in the person's name, address, attending physician or  
 25 designated primary caregiver.

26 (B) If applicable, notify the designated primary caregiver of the cardholder *[and the person re-*  
 27 *sponsible for the marijuana grow site that produces marijuana for the cardholder]* of any change in  
 28 status including, but not limited to:

29 (i) The assignment of another individual as the designated primary caregiver of the cardholder;

30 **or**

31 *[(ii) The assignment of another individual as the person responsible for a marijuana grow site*  
 32 *producing marijuana for the cardholder; or]*

33 *[(iii)]* (ii) The end of the eligibility of the cardholder to hold a valid registry identification card.

34 (C) Annually submit to the department:

35 (i) Updated written documentation from the cardholder's attending physician of the person's  
 36 debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or  
 37 effects of the person's debilitating medical condition; and

38 (ii) The name of the person's designated primary caregiver if a primary caregiver has been  
 39 designated for the upcoming year.

40 (b) If a person who possesses a registry identification card fails to comply with this subsection,  
 41 the card *[shall be deemed expired]* **expires**. If a registry identification card expires, the identification  
 42 card of any designated primary caregiver of the cardholder *[shall also expire]* **also expires**.

43 (8)(a) A person who possesses a registry identification card pursuant to this section and who  
 44 has been diagnosed by the person's attending physician as no longer having a debilitating medical  
 45 condition or whose attending physician has determined that the medical use of marijuana is

1 contraindicated for the person’s debilitating medical condition shall return the registry identification  
 2 card and any other associated Oregon Medical Marijuana Program cards to the department within  
 3 30 calendar days of notification of the diagnosis or notification of the contraindication.

4 (b) If, due to circumstances beyond the control of the registry identification cardholder, a  
 5 cardholder is unable to obtain a second medical opinion about the cardholder’s continuing eligibility  
 6 to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection [*has*  
 7 *expired*] **expires**, the department may grant the cardholder additional time to obtain a second opin-  
 8 ion before requiring the cardholder to return the registry identification card and any associated  
 9 cards.

10 (9) A person who has applied for a registry identification card pursuant to this section but  
 11 whose application has not yet been approved or denied, and who is contacted by any law enforce-  
 12 ment officer in connection with the person’s administration, possession[,] **or** delivery [*or*  
 13 *production*] of marijuana for medical use may provide to the law enforcement officer a copy of the  
 14 written documentation submitted to the department pursuant to subsection (2) or (3) of this section  
 15 and proof of the date of mailing or other transmission of the documentation to the department. This  
 16 documentation [*shall have*] **has** the same legal effect as a registry identification card until such time  
 17 as the person receives notification that the application has been approved or denied.

18 (10) A registry identification cardholder has the primary responsibility of notifying the primary  
 19 caregiver [*and person responsible for the marijuana grow site that produces marijuana for the*  
 20 *cardholder*] of any change in status of the cardholder. If the department is notified by the cardholder  
 21 that a primary caregiver [*or person responsible for a marijuana grow site*] has changed, the depart-  
 22 ment shall notify the primary caregiver [*or the person responsible for the marijuana grow site*] by  
 23 mail at the address of record confirming the change in status and informing the caregiver [*or*  
 24 *person*] that [*their*] **the caregiver’s** card is no longer valid and must be returned to the department.

25 (11) The department shall revoke the registry identification card of a cardholder if a court has  
 26 issued an order that prohibits the cardholder from participating in the medical use of marijuana or  
 27 otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346.  
 28 The cardholder shall return the registry identification card to the department within seven calendar  
 29 days of notification of the revocation. If the cardholder is a patient, the patient shall return the  
 30 patient’s card and all other associated Oregon Medical Marijuana Program cards.

31 (12) The department and employees and agents of the department acting within the course and  
 32 scope of their employment are immune from any civil liability that might be incurred or imposed for  
 33 the performance of or failure to perform duties required by this section.

34 **SECTION 7.** ORS 475.316 is amended to read:

35 475.316. (1) [*No*] **A** person **who is** authorized to possess[,] **or** deliver [*or produce*] marijuana for  
 36 medical use pursuant to ORS 475.300 to 475.346 [*shall be*] **is not** excepted from the criminal laws  
 37 of this state [*or shall be deemed to have established*] **and does not have** an affirmative defense to  
 38 criminal charges of which possession[,] **or** delivery [*or production*] of marijuana is an element if the  
 39 person, in connection with the facts giving rise to such charges:

40 (a) Drives under the influence of marijuana as provided in ORS 813.010;

41 (b) Engages in the medical use of marijuana in a public place as that term is defined in ORS  
 42 161.015, or in public view or in a correctional facility as defined in ORS 162.135 (2) or youth cor-  
 43 rection facility as defined in ORS 162.135 (6);

44 (c) Delivers marijuana to [*any*] **an** individual who the person knows is not in possession of a  
 45 registry identification card; **or**

1 (d) Delivers marijuana for consideration to *[any]* **an** individual, even if the individual is in pos-  
 2 session of a registry identification card[;].

3 *[(e) Manufactures or produces marijuana at a place other than a marijuana grow site authorized*  
 4 *under ORS 475.304; or]*

5 *[(f) Manufactures or produces marijuana at more than one address.]*

6 (2) In addition to any other penalty allowed by law, a person who the Department of Human  
 7 Services finds has willfully violated the provisions of ORS 475.300 to 475.346, or rules adopted under  
 8 ORS 475.300 to 475.346, may be precluded from obtaining or using a registry identification card for  
 9 the medical use of marijuana for a period of up to six months, at the discretion of the department.

10 **SECTION 8.** ORS 475.319 is amended to read:

11 475.319. (1) Except as provided in ORS 475.316 and 475.342, it is an affirmative defense to a  
 12 criminal charge of possession *[or production]* of marijuana, or any other criminal offense in which  
 13 possession *[or production]* of marijuana is an element, that the person charged with the offense is  
 14 a person who:

15 (a) Has been diagnosed with a debilitating medical condition within 12 months prior to arrest  
 16 and been advised by the person's attending physician that the medical use of marijuana may mitigate  
 17 the symptoms or effects of that debilitating medical condition;

18 (b) Is engaged in the medical use of marijuana; and

19 (c) Possesses *[or produces]* marijuana only in amounts permitted under ORS 475.320.

20 (2) It is not necessary for a person asserting an affirmative defense pursuant to this section to  
 21 have received a registry identification card in order to assert the affirmative defense established in  
 22 this section.

23 (3) No person engaged in the medical use of marijuana who claims that marijuana provides  
 24 medically necessary benefits and who is charged with a crime pertaining to such use of marijuana  
 25 shall be precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from  
 26 presenting evidence supporting the necessity of marijuana for treatment of a specific disease or  
 27 medical condition, provided that the amount of marijuana at issue is no greater than permitted un-  
 28 der ORS 475.320 and the patient has taken a substantial step to comply with the provisions of ORS  
 29 475.300 to 475.346.

30 (4) Any defendant proposing to use the affirmative defense provided for by this section in a  
 31 criminal action shall, not less than five days before the trial of the cause, file and serve upon the  
 32 district attorney a written notice of the intention to offer such a defense that specifically states the  
 33 reasons why the defendant is entitled to assert and the factual basis for such affirmative defense.  
 34 If the defendant fails to file and serve such notice, the defendant is not permitted to assert the af-  
 35 firmative defense at the trial of the cause unless the court for good cause orders otherwise.

36 **SECTION 9.** ORS 475.320 is amended to read:

37 475.320. (1)*[(a)]* A registry identification cardholder *[or the]* **and the cardholder's** designated  
 38 primary caregiver *[of the cardholder]* may **collectively** possess up to *[six mature marijuana plants*  
 39 *and]* 24 ounces of usable marijuana.

40 *[(b)]* (2) Notwithstanding *[paragraph (a) of this]* subsection (1) **of this section**, if a registry  
 41 identification cardholder has been convicted of a Class A or Class B felony under ORS 475.840 to  
 42 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, the  
 43 registry identification cardholder or the designated primary caregiver of the cardholder may possess  
 44 one ounce of usable marijuana at any given time for a period of five years from the date of the  
 45 conviction.

1 [(2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:]

2 [(a) May produce marijuana for and provide marijuana to a registry identification cardholder or  
3 that person's designated primary caregiver as authorized under this section.]

4 [(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each  
5 cardholder or caregiver for whom marijuana is being produced.]

6 [(c) May produce marijuana for no more than four registry identification cardholders or designated  
7 primary caregivers concurrently.]

8 [(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304  
9 for each registry identification cardholder or designated primary caregiver for whom marijuana is be-  
10 ing produced.]

11 [(e) Must provide all marijuana produced for a registry identification cardholder or designated  
12 primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana  
13 grow site ceases producing marijuana for the cardholder or caregiver.]

14 [(f) Must return the marijuana grow site registration card to the registry identification cardholder  
15 to whom the card was issued when requested to do so by the cardholder or when the person responsible  
16 for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]

17 [(3) Except as provided in subsections (1) and (2) of this section, a registry identification  
18 cardholder, the designated primary caregiver of the cardholder and the person responsible for a  
19 marijuana grow site producing marijuana for the registry identification cardholder may possess a  
20 combined total of up to six mature plants and 24 ounces of usable marijuana for that registry iden-  
21 tification cardholder.]

22 [(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder  
23 may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the De-  
24 partment of Human Services.]

25 [(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or  
26 starts as defined by rule of the department for each registry identification cardholder for whom the  
27 person responsible for the marijuana grow site is producing marijuana.]

28 **SECTION 10.** ORS 475.324 is amended to read:

29 475.324. A law enforcement officer who determines that a registry identification cardholder is  
30 in possession of amounts of usable marijuana [*or numbers of marijuana plants*] in excess of the  
31 amount [*or number*] authorized by ORS 475.320 may confiscate only any usable marijuana [*or*  
32 *plants*] that are in excess of the amount or number authorized.

33 **SECTION 11.** ORS 475.331 is amended to read:

34 475.331. (1)(a) The Department of Human Services shall create and maintain a list of the persons  
35 to whom the department has issued registry identification cards[,] **and** the names of any designated  
36 primary caregivers [*and the addresses of authorized marijuana grow sites*]. Except as provided in  
37 subsection (2) of this section, the list [*shall be*] **is** confidential and not subject to public disclosure.

38 (b) The department shall develop a system by which authorized employees of state and local law  
39 enforcement agencies may verify at all times that a person is a lawful possessor of a registry iden-  
40 tification card or the designated primary caregiver of a lawful possessor of a registry identification  
41 card [*or that a location is an authorized marijuana grow site*].

42 (2) Names and other identifying information from the list established pursuant to subsection (1)  
43 of this section may be released to:

44 (a) Authorized employees of the department as necessary to perform official duties of the de-  
45 partment; and



1 (b) Authorized employees of state or local law enforcement agencies, only as necessary to verify  
 2 that a person is a lawful possessor of a registry identification card or the designated primary  
 3 caregiver of a lawful possessor of a registry identification card [*or that a location is an authorized*  
 4 *marijuana grow site*]. Prior to being provided identifying information from the list, authorized em-  
 5 ployees of state or local law enforcement agencies [*shall*] **must** provide to the department adequate  
 6 identification, such as a badge number or similar authentication of authority.

7 (3) Authorized employees of state or local law enforcement agencies that obtain identifying in-  
 8 formation from the list as authorized under this section may not release or use the information for  
 9 any purpose other than verification that a person is a lawful possessor of a registry identification  
 10 card or the designated primary caregiver of a lawful possessor of a registry identification card [*or*  
 11 *that a location is an authorized marijuana grow site*].

12 **SECTION 12. ORS 475.304 is repealed.**

13 **SECTION 13. (1) As used in this section, “designated primary caregiver,” “registry iden-**  
 14 **tification card” and “usable marijuana” have the meanings given those terms in ORS 475.302.**

15 **(2) A tax of \$98 is imposed on each ounce of usable marijuana provided to a person with**  
 16 **a registry identification card or designated primary caregiver by a pharmacy.**

17 **(3) The cardholder or caregiver shall pay the tax imposed by subsection (2) of this section**  
 18 **to a pharmacy for each ounce of usable marijuana dispensed to the cardholder or caregiver**  
 19 **by the pharmacy.**

20 **(4) A pharmacy shall collect from a cardholder or caregiver the full amount of the tax**  
 21 **payable for each ounce of usable marijuana dispensed by the pharmacy to the cardholder or**  
 22 **caregiver.**

23 **(5) A pharmacy shall hold a tax collected under subsection (4) of this section in trust for**  
 24 **the State of Oregon until paid to the Department of Revenue under section 14 of this 2009**  
 25 **Act.**

26 **SECTION 14. (1) A pharmacy shall file a return with the Department of Revenue as re-**  
 27 **quired by the rules of the department. The pharmacy shall remit the tax due under section**  
 28 **13 of this 2009 Act to the department at the time fixed for filing the return.**

29 **(2) After payment of refunds, all moneys received by the department under subsection**  
 30 **(1) of this section shall be paid into the Marijuana Production Facility Fund established under**  
 31 **section 16 of this 2009 Act.**

32 **(3) If a pharmacy fails to remit any amount held in trust for the State of Oregon, the**  
 33 **department may enforce collection charges in the same manner that is prescribed for col-**  
 34 **lection of delinquent income taxes.**

35 **(4) If the amount paid by a pharmacy exceeds the amount of tax payable, the department**  
 36 **shall refund the amount of the excess with interest at the rate established under ORS 305.220**  
 37 **for each month or fraction of a month from the date of payment of the excess until the date**  
 38 **of the refund. A refund may not be made to a pharmacy that fails to claim the refund within**  
 39 **two years after the due date for the filing of the return with respect to which the claim for**  
 40 **the refund relates.**

41 **(5) The exclusive remedy for a pharmacy in a dispute involving tax liability imposed by**  
 42 **section 13 of this 2009 Act is to file a claim with the department.**

43 **SECTION 15. (1) Every pharmacy responsible for collecting moneys from the tax imposed**  
 44 **by section 13 of this 2009 Act shall keep records, render statements, make returns and**  
 45 **comply with rules adopted by the Department of Revenue for the purpose of implementing**

1 sections 13 and 14 of this 2009 Act.

2 (2) Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and  
 3 316 as to the audit and examination of reports and returns, determinations of deficiencies,  
 4 assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants,  
 5 confidentiality and disclosure of information, conferences and appeals to the Oregon Tax  
 6 Court, and all related procedures, apply to the tax imposed under section 13 of this 2009 Act  
 7 the same as if the tax were a tax imposed upon or measured by net income.

8 **SECTION 16.** The Marijuana Production Facility Fund is established in the State Treas-  
 9 ury, separate and distinct from the General Fund. Interest earned by the Marijuana Pro-  
 10 duction Facility Fund shall be credited to the fund. The fund consists of moneys deposited  
 11 in the fund under sections 2 and 14 of this 2009 Act. Moneys in the fund are continuously  
 12 appropriated to the Department of Human Services for purposes of establishing and operat-  
 13 ing the marijuana production facility required by section 2 of this 2009 Act.

14 **SECTION 17.** (1) Sections 2 and 3 of this 2009 Act, the amendments to ORS 475.302,  
 15 475.306, 475.309, 475.316, 475.319, 475.320, 475.324 and 475.331 by sections 4 to 11 of this 2009  
 16 Act and the repeal of ORS 475.304 by section 12 of this 2009 Act become operative on January  
 17 1, 2011.

18 (2) The Director of Human Services may take any action before the operative date spec-  
 19 ified in subsection (1) of this section that is necessary to enable the director to exercise, on  
 20 and after the operative date, all the duties, functions and powers conferred on the director  
 21 by this 2009 Act.

22 (3) The State Board of Pharmacy may take any action before the operative date specified  
 23 in subsection (1) of this section that is necessary to enable the board to exercise, on and  
 24 after the operative date, all the duties, functions and powers conferred on the board by this  
 25 2009 Act.

26 **SECTION 18.** Sections 13 to 15 of this 2009 Act apply to marijuana dispensed on or after  
 27 January 1, 2011.

28