

Senate Bill 957

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Association Chiefs of Police, Oregon State Sheriffs' Association, Oregon District Attorneys Association, Oregon Narcotics Enforcement Association and Oregon Partnership)

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**.

Modifies provisions of Oregon Medical Marijuana Act.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to medical marijuana; amending ORS 475.304, 475.309, 475.312 and 475.331; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 475.304 is amended to read:

6 475.304. *[(1)]* **(1)(a)** The Department of Human Services shall establish by rule a marijuana grow
7 site registration system to authorize production of marijuana by a registry identification cardholder,
8 a designated primary caregiver who grows marijuana for the cardholder or a person who is re-
9 sponsible for a marijuana grow site. The marijuana grow site registration system adopted must re-
10 quire a registry identification cardholder to submit an application to the department that includes:

11 *[(a)]* **(A)** The name, **date of birth and address** of the person responsible for the marijuana grow
12 site;

13 *[(b)]* **(B)** The address, **including the street name and number**, of the marijuana grow site;

14 **(C) The tax lot number as depicted on a current certified copy of a tax lot map from the**
15 **county assessor;**

16 *[(c)]* **(D)** The registry identification card number of the registry cardholder for whom the
17 marijuana is being produced;

18 **(E) A statement, signed under penalty of perjury by the registry identification cardholder**
19 **and any other person who is responsible for the marijuana grow site, attesting to the accu-**
20 **racy of the application;** and

21 *[(d)]* **(F)** Any other information the department considers necessary.

22 **(b) The department may not issue a marijuana grow site card to any person who has not**
23 **completed the course described in ORS 475.309 (5).**

24 (2) The department shall issue a marijuana grow site registration card to a registry identifica-
25 tion cardholder who has met the requirements of subsection (1) of this section.

26 (3) A person who has been issued a marijuana grow site registration card under this section
27 must display the registration card at the marijuana grow site at all times when marijuana is being
28 produced.

29 (4) A marijuana grow site registration card must be obtained and posted for each registry
30 identification cardholder for whom marijuana is being produced at a marijuana grow site.

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 (5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana
 2 for a registry identification cardholder by a person responsible for a marijuana grow site are the
 3 property of the registry identification cardholder and must be provided to the registry identification
 4 cardholder upon request.

5 [(6)(a)] (6) The department shall conduct a criminal records check under ORS 181.534 of any
 6 person *[whose name is submitted as a person]* **who is:**

7 (a) **A registry identification cardholder;**

8 (b) **A designated primary caregiver; or**

9 (c) Responsible for a marijuana grow site.

10 (7) **The department shall conduct criminal records checks of the persons described in**
 11 **subsection (6) of this section upon receipt of an application to register a marijuana grow site**
 12 **and no less than annually thereafter.**

13 (8) **The department shall submit a report to the Legislative Assembly in January of each**
 14 **year summarizing the number of persons described in subsection (6) of this section, the**
 15 **number of those persons arrested for, or convicted of, a crime, and the crimes for which**
 16 **they were arrested or convicted, in the preceding calendar year. The report may not disclose**
 17 **any individually identifiable information.**

18 [(b)] (9)(a) A person convicted of a Class A or Class B felony under ORS 475.840 to 475.920 for
 19 the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued
 20 a marijuana grow site registration card or produce marijuana for a registry identification cardholder
 21 for five years from the date of conviction.

22 [(c)] (b) A person convicted more than once of a Class A or Class B felony under ORS 475.840
 23 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II
 24 may not be issued a marijuana grow site registration card or produce marijuana for a registry
 25 identification cardholder.

26 [(7) *A registry identification cardholder or the designated primary caregiver of the cardholder may*
 27 *reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities as-*
 28 *sociated with the production of marijuana for the registry identification cardholder. No other costs as-*
 29 *sociated with the production of marijuana for the registry identification cardholder, including the cost*
 30 *of labor, may be reimbursed.]*

31 **SECTION 2.** ORS 475.309 is amended to read:

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

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

41 (b) The person who has a debilitating medical condition, the person's primary caregiver and the
 42 person responsible for a marijuana grow site that is producing marijuana for the cardholder and is
 43 registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for
 44 medical use in amounts allowed under ORS 475.320.

45 (2) The Department of Human Services shall establish and maintain a program for the issuance

1 of registry identification cards to persons who meet the requirements of this section. Except as
 2 provided in subsection (3) of this section, the department shall issue a registry identification card
 3 to any person who pays a fee in the amount established by the department and provides the fol-
 4 lowing:

5 (a) Valid, written documentation from the person's attending physician stating that the person
 6 has been diagnosed with a debilitating medical condition, *[and]* that the medical use of marijuana
 7 may mitigate the symptoms or effects of the person's debilitating medical condition **and the daily**
 8 **amount of marijuana that may be justified to mitigate the symptoms or effects;**

9 (b) The name, **date of birth and** address *[and date of birth]* of the person;

10 (c) The name, address and telephone number of the person's attending physician;

11 (d) The name, **date of birth** and address of the person's designated primary caregiver, if the
 12 person has designated a primary caregiver at the time of application; and

13 (e) A written statement that indicates whether the marijuana used by the cardholder will be
 14 produced at a location where the cardholder or designated primary caregiver is present or at an-
 15 other location.

16 (3) The department shall issue a registry identification card to a person who is under 18 years
 17 of age if the person submits the materials required under subsection (2) of this section, and the
 18 custodial parent or legal guardian with responsibility for health care decisions for the person under
 19 18 years of age signs a written statement that:

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

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

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

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

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

39 **(5) The department shall develop and provide a certification course for designated pri-**
 40 **mary caregivers and persons responsible for a marijuana grow site. The course shall include**
 41 **education regarding the provisions of ORS 475.300 to 475.346.**

42 *[(5)(a)]* **(6)(a)** The department shall verify the information contained in an application submitted
 43 pursuant to this section **within seven calendar days of receipt of the application** and shall ap-
 44 prove or deny *[an]* **the application** within *[thirty]* **fourteen calendar** days *[of receipt of the applica-*
 45 *tion]*. **If the application is denied, the department shall specify the reason for the denial.**

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

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

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

8 (C) The applicant, **designated primary caregiver or person responsible for a grow site** has
9 been prohibited by a court order from *[obtaining a registry identification card]* **using or possessing**
10 **a controlled substance without a valid prescription.**

11 (c) Denial of a registry identification card shall be considered a final department action, subject
12 to judicial review. Only the person whose application has been denied, or, in the case of a person
13 under the age of 18 years of age whose application has been denied, the person's parent or legal
14 guardian, shall have standing to contest the department's action.

15 (d) Any person whose application has been denied may not reapply for six months from the date
16 of the denial, unless so authorized by the department or a court of competent jurisdiction.

17 [(6)(a)] **(7)(a)** If the department has verified the information submitted pursuant to subsections
18 (2) and (3) of this section and none of the reasons for denial listed in subsection [(5)(b)] **(6)(b)** of this
19 section is applicable, the department shall issue a serially numbered registry identification card
20 within five days of verification of the information. The registry identification card shall state:

21 (A) The cardholder's name, **date of birth and** address *[and date of birth]*;

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

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

24 (D) Whether the marijuana used by the cardholder will be produced at a location where the
25 cardholder or designated primary caregiver is present or at another location; and

26 (E) Any other information that the department may specify by rule.

27 (b) When the person to whom the department has issued a registry identification card pursuant
28 to this section has specified a designated primary caregiver **and the caregiver has completed the**
29 **course described in subsection (5) of this section**, the department shall issue an identification
30 card to the designated primary caregiver. The primary caregiver's registry identification card shall
31 contain the information provided in paragraph (a) of this subsection.

32 [(7)(a)] **(8)(a)** A person who possesses a registry identification card shall:

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

35 (B) If applicable, notify the designated primary caregiver of the cardholder and the person re-
36 sponsible for the marijuana grow site that produces marijuana for the cardholder of any change in
37 status including, but not limited to:

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

39 (ii) The assignment of another individual as the person responsible for a marijuana grow site
40 producing marijuana for the cardholder; or

41 (iii) The end of the eligibility of the cardholder to hold a valid registry identification card.

42 (C) Annually submit to the department:

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

1 (ii) The name, **date of birth and address** of the person's designated primary caregiver if a
2 primary caregiver has been designated for the upcoming year.

3 (b) If a person who possesses a registry identification card fails to comply with this subsection,
4 the card shall be deemed expired. If a registry identification card expires, the identification card of
5 any designated primary caregiver of the cardholder shall also expire.

6 [(8)(a)] **(9)(a)** A person who possesses a registry identification card pursuant to this section and
7 who has been diagnosed by the person's attending physician as no longer having a debilitating
8 medical condition or whose attending physician has determined that the medical use of marijuana
9 is contraindicated for the person's debilitating medical condition shall return the registry identifi-
10 cation card and any other associated Oregon Medical Marijuana Program cards to the department
11 within 30 calendar days of notification of the diagnosis or notification of the contraindication.

12 (b) If, due to circumstances beyond the control of the registry identification cardholder, a
13 cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility
14 to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has
15 expired, the department may grant the cardholder additional time to obtain a second opinion before
16 requiring the cardholder to return the registry identification card and any associated cards.

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

25 [(10)] **(11)** A registry identification cardholder has the primary responsibility of notifying the
26 primary caregiver and person responsible for the marijuana grow site that produces marijuana for
27 the cardholder of any change in status of the cardholder. If the department is notified by the
28 cardholder that a primary caregiver or person responsible for a marijuana grow site has changed,
29 the department shall, **within seven calendar days:**

30 (a) Notify the primary caregiver or the person responsible for the marijuana grow site by mail
31 at the address of record confirming the change in status and informing the caregiver or person that
32 their card is no longer valid and must be returned to the department.

33 (b) **Provide a copy of any notice issued under paragraph (a) of this subsection to the**
34 **Department of State Police and the county sheriff where the designated primary caregiver**
35 **or person responsible for the marijuana grow site resides.**

36 [(11)] **(12)** The Department of Human Services shall revoke *[the]* a person's registry identifi-
37 cation card *[of a cardholder]*, **designated primary caregiver identification card or marijuana**
38 **grow site card** if a court *[has issued]* **issues** an order that prohibits the *[cardholder]* **person** from
39 participating in the medical use of marijuana or otherwise participating in the Oregon Medical
40 Marijuana Program under ORS 475.300 to 475.346. The *[cardholder]* **person** shall return the *[registry*
41 *identification]* card to the department within seven calendar days of notification of the revocation.
42 *[If the cardholder is a patient, the patient]* **When the department revokes a registry identification**
43 **card, the cardholder** shall return the *[patient's]* **registry identification** card and all other associ-
44 ated Oregon Medical Marijuana Program cards.

45 [(12)] **(13)** The department and employees and agents of the department acting within the course

1 and scope of their employment are immune from any civil liability that might be incurred or imposed
2 for the performance of or failure to perform duties required by this section.

3 **SECTION 3.** ORS 475.312 is amended to read:

4 475.312. (1) If a person who possesses a registry identification card issued pursuant to ORS
5 475.309 chooses to have a designated primary caregiver, the person must designate the primary
6 caregiver by including the primary caregiver's name, **date of birth** and address:

7 (a) On the person's application for a registry identification card;

8 (b) In the annual updated information required under ORS 475.309; or

9 (c) In a written, signed statement submitted to the Department of Human Services.

10 (2) A person described in this section may have only one designated primary caregiver at any
11 given time.

12 **SECTION 4.** ORS 475.331 is amended to read:

13 475.331. (1)(a) The Department of Human Services shall create and maintain a list of the [*persons*
14 *to whom the department has issued registry identification cards, the names of any designated primary*
15 *caregivers and the*] addresses of authorized marijuana grow sites **and the names, dates of birth**
16 **and addresses of registry identification cardholders, designated primary caregivers and per-**
17 **sons responsible for a marijuana grow site.** Except as provided in subsection (2) of this section,
18 the list shall be confidential and not subject to public disclosure.

19 (b) The department shall develop a system by which authorized employees of state and local law
20 enforcement agencies may verify at all times that a person is a lawful possessor of a registry iden-
21 tification card or the designated primary caregiver of a lawful possessor of a registry identification
22 card or that a location is an authorized marijuana grow site. **The system must be accessible**
23 **through the Law Enforcement Data System created under ORS 181.730.**

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

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

28 (b) Authorized employees of state or local law enforcement agencies. [*only as necessary to*
29 *verify that a person is a lawful possessor of a registry identification card or the designated primary*
30 *caregiver of a lawful possessor of a registry identification card or that a location is an authorized*
31 *marijuana grow site.*] Prior to being provided identifying information from the list, authorized em-
32 ployees of state or local law enforcement agencies shall provide to the department adequate iden-
33 tification, such as a badge number or similar authentication of authority. **The department shall**
34 **provide the employee with:**

35 (A) **The name, date of birth and address of any registry identification cardholder, the**
36 **cardholder's designated primary caregiver and the person responsible for the cardholder's**
37 **marijuana grow site;**

38 (B) **A marijuana grow site address and any cardholder's name, date of birth and address**
39 **with which the site is associated;**

40 (C) **Information regarding the number of persons for whom a designated primary**
41 **caregiver may provide care; and**

42 (D) **The names of any cardholders, designated primary caregivers or persons responsible**
43 **for a grow site that is associated with a particular address.**

44 (3) **The department may not disclose that an inquiry was made under this section to any**
45 **person not authorized under subsection (2) of this section.**

1 [(3)] (4) Authorized employees of state or local law enforcement agencies that obtain identifying
2 information from the list as authorized under this section may not release or use the information for
3 any purpose other than verification that a person is a lawful possessor of a registry identification
4 card or the designated primary caregiver of a lawful possessor of a registry identification card or
5 that a location is an authorized marijuana grow site.

6 **SECTION 5. This 2009 Act being necessary for the immediate preservation of the public**
7 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
8 **on its passage.**

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