

Senate Bill 958

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 in Oregon Medical Marijuana Act related to designated primary caregivers.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to designated primary caregivers; amending ORS 475.306, 475.309 and 475.312; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 475.312 is amended to read:

6 475.312. (1) **Except as otherwise provided in ORS 475.309 (3), a designated primary**
7 **caregiver may assist a person who possesses a registry identification card in the medical use**
8 **of marijuana if the cardholder's attending physician certifies that a caregiver is medically**
9 **necessary because the cardholder is:**

10 (a) **Severely ill; and**

11 (b) **Physically incapacitated or debilitated to the degree that a caregiver is required for**
12 **the daily physical care of the patient.**

13 [(1)] (2) If a [*person who possesses a registry identification card issued pursuant to ORS 475.309*]
14 **cardholder** chooses to have a designated primary caregiver, the [*person*] **cardholder** must **provide**
15 **the Department of Human Services with the certification described in subsection (1) of this**
16 **section and** designate the primary caregiver by including the primary caregiver's name and address:

17 (a) On the [*person's*] application for a registry identification card;

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

19 (c) In a written, signed statement submitted to the department [*of Human Services*].

20 [(2)] (3) A [*person described in this section*] **cardholder** may have only one designated primary
21 caregiver at any given time.

22 (4) **A cardholder who has a designated primary caregiver may not be a designated pri-**
23 **mary caregiver or a person responsible for a marijuana grow site.**

24 (5) **A person may not be a designated primary caregiver for more than two cardholders**
25 **at any given time.**

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

27 475.309. (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or as-
28 sisting in the medical use of marijuana is excepted from the criminal laws of the state for possession,
29 delivery or production of marijuana, aiding and abetting another in the possession, delivery or pro-
30 duction of marijuana or any other criminal offense in which possession, delivery or production of

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 marijuana is an element if the following conditions have been satisfied:

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

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

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

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

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

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

20 (d) **The certification described in ORS 475.312** and the name and address of the person's
21 designated primary caregiver, if the person has designated a primary caregiver at the time of ap-
22 plication; and

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

26 (3) The department shall issue a registry identification card to a person who is under 18 years
27 of age if the person submits the materials required under subsection (2) of this section, and the
28 custodial parent or legal guardian with responsibility for health care decisions for the person under
29 18 years of age signs a written statement that:

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

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

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

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

42 (4) A person applying for a registry identification card pursuant to this section may submit the
43 information required in this section to a county health department for transmittal to the Department
44 of Human Services. A county health department that receives the information pursuant to this sub-
45 section shall transmit the information to the Department of Human Services within five days of re-

1 ceipt of the information. Information received by a county health department pursuant to this
2 subsection shall be confidential and not subject to disclosure, except as required to transmit the
3 information to the Department of Human Services.

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

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

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

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

14 (C) The applicant has been prohibited by a court order from obtaining a registry identification
15 card.

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

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

22 (6)(a) If the department has verified the information submitted pursuant to subsections (2) and
23 (3) of this section and none of the reasons for denial listed in subsection (5)(b) of this section is
24 applicable, the department shall issue a serially numbered registry identification card within five
25 days of verification of the information. The registry identification card shall state:

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

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

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

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

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

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

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

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

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

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

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

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

1 (C) Annually submit to the department:

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

5 (ii) The name of the person's designated primary caregiver **and the certification described in**
6 **ORS 475.312**, if a primary caregiver has been designated for the upcoming year.

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

10 (8)(a) A person who possesses a registry identification card pursuant to this section and who
11 has been diagnosed by the person's attending physician as no longer having a debilitating medical
12 condition or whose attending physician has determined that the medical use of marijuana is
13 contraindicated for the person's debilitating medical condition shall return the registry identification
14 card and any other associated Oregon Medical Marijuana Program cards to the department within
15 30 calendar days of notification of the diagnosis or notification of the contraindication.

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

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

29 (10) A registry identification cardholder has the primary responsibility of notifying the primary
30 caregiver and person responsible for the marijuana grow site that produces marijuana for the
31 cardholder of any change in status of the cardholder. If the department is notified by the cardholder
32 that a primary caregiver or person responsible for a marijuana grow site has changed, the depart-
33 ment shall notify the primary caregiver or the person responsible for the marijuana grow site by
34 mail at the address of record confirming the change in status and informing the caregiver or person
35 that their card is no longer valid and must be returned to the department.

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

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

45 **SECTION 3.** ORS 475.306 is amended to read:

