

# Senate Bill 960

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 requirements for obtaining marijuana grow site registration card.

Requires registry identification cardholder, designated primary caregiver and person responsible for grow site to authorize inspection. Requires Department of Human Services to revoke registry identification card, marijuana grow site registration card or designated primary caregiver identification card of person who refuses inspection. Removes exception from criminal liability for person who refuses inspection.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to medical marijuana; amending ORS 475.304, 475.316, 475.320 and 475.323; 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 of the person responsible for the marijuana grow site;

12 *[(b)]* **(B)** The address of the marijuana grow site;

13 *[(c)]* **(C)** The registry identification card number of the registry cardholder for whom the  
14 marijuana is being produced;

15 **(D) The written agreement described in paragraph (b) of this subsection;** and

16 *[(d)]* **(E)** Any other information the department considers necessary.

17 **(b) An application for a marijuana grow site registration card shall include a written**  
18 **agreement authorizing the inspection of the marijuana grow site and the person, vehicle and**  
19 **residence of the registry identification cardholder, the person responsible for the grow site**  
20 **and the designated primary caregiver, if any. The agreement must authorize an inspection**  
21 **upon the request of any department employee or law enforcement designee of the depart-**  
22 **ment at any time between the hours of 8 a.m. and 5 p.m., Monday through Friday, or at any**  
23 **time if a law enforcement designee of the department develops probable cause to believe that**  
24 **the registry identification cardholder, the person responsible for the grow site or the desig-**  
25 **nated primary caregiver, if any, is in violation of the provisions of ORS 475.840 to 475.980.**  
26 **The agreement must be signed by the registry identification cardholder, the person respon-**  
27 **sible for the grow site and the designated primary caregiver, if any.**

**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       **(c) A single address may not be used as a marijuana grow site for more than two registry**  
 2 **identification cardholders.**

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

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

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

10       ~~[(5)]~~ **(5)(a)** All usable marijuana, plants, seedlings and seeds associated with the production of  
 11 marijuana for a registry identification cardholder by a person responsible for a marijuana grow site  
 12 are the property of the registry identification cardholder and must be provided to the registry  
 13 identification cardholder upon request.

14       **(b) A registry identification cardholder may request assistance from a law enforcement**  
 15 **agency to obtain any usable marijuana, plants, seedlings and seeds associated with the pro-**  
 16 **duction of marijuana for the registry identification cardholder from the cardholder’s desig-**  
 17 **ned primary caregiver or the person responsible for the grow site. If a cardholder requests**  
 18 **assistance under this paragraph and the law enforcement agency determines that the person**  
 19 **responsible for the grow site or the designated primary caregiver is in violation of the**  
 20 **criminal laws of this state, or has otherwise failed to comply with ORS 475.300 to 475.346, the**  
 21 **registry identification cardholder is not criminally liable for the violation if the cardholder**  
 22 **did not aid and abet the violation.**

23       (6)(a) The department shall conduct a criminal records check under ORS 181.534 of any person  
 24 whose name is submitted as a person responsible for a marijuana grow site.

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

29       (c) A person convicted more than once of a Class A or Class B felony under ORS 475.840 to  
 30 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may  
 31 not be issued a marijuana grow site registration card or produce marijuana for a registry identifi-  
 32 cation cardholder.

33       (7) A registry identification cardholder or the designated primary caregiver of the cardholder  
 34 may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities  
 35 associated with the production of marijuana for the registry identification cardholder. No other  
 36 costs associated with the production of marijuana for the registry identification cardholder, includ-  
 37 ing the cost of labor, may be reimbursed.

38       **SECTION 2.** ORS 475.316 is amended to read:

39       475.316. (1) No person authorized to possess, deliver or produce marijuana for medical use pur-  
 40 suant to ORS 475.300 to 475.346 shall be excepted from the criminal laws of this state or shall be  
 41 deemed to have established an affirmative defense to criminal charges of which possession, delivery  
 42 or production of marijuana is an element if the person, in connection with the facts giving rise to  
 43 such charges:

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

45       (b) Engages in the medical use of marijuana in a public place as that term is defined in ORS

1 161.015, or in public view or in a correctional facility as defined in ORS 162.135 (2) or youth cor-  
 2 rection facility as defined in ORS 162.135 (6);

3 (c) Delivers marijuana to any individual who the person knows is not in possession of a registry  
 4 identification card;

5 (d) Delivers marijuana for consideration to any individual, even if the individual is in possession  
 6 of a registry identification card;

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

9 (f) Manufactures or produces marijuana at more than one address; or

10 **(g) Fails or refuses to submit to an inspection under the circumstances described in ORS**  
 11 **475.304.**

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

16 **SECTION 3.** ORS 475.320 is amended to read:

17 475.320. (1)(a) A registry identification cardholder or the designated primary caregiver of the  
 18 cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.

19 (b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has  
 20 been convicted of a Class A or Class B felony under ORS 475.840 to 475.920 for the manufacture or  
 21 delivery of a controlled substance in Schedule I or Schedule II, the registry identification cardholder  
 22 or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana  
 23 at any given time for a period of five years from the date of the conviction.

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

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

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

29 (c) May produce marijuana for no more than [four] **two** registry identification cardholders or  
 30 designated primary caregivers concurrently.

31 (d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304  
 32 for each registry identification cardholder or designated primary caregiver for whom marijuana is  
 33 being produced.

34 (e) Must provide all marijuana produced for a registry identification cardholder or designated  
 35 primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana  
 36 grow site ceases producing marijuana for the cardholder or caregiver.

37 (f) Must return the marijuana grow site registration card to the registry identification  
 38 cardholder to whom the card was issued when requested to do so by the cardholder or when the  
 39 person responsible for a marijuana grow site ceases producing marijuana for the cardholder or  
 40 caregiver.

41 (3) Except as provided in subsections (1) and (2) of this section, a registry identification  
 42 cardholder, the designated primary caregiver of the cardholder and the person responsible for a  
 43 marijuana grow site producing marijuana for the registry identification cardholder may possess a  
 44 combined total of up to six mature plants and 24 ounces of usable marijuana for that registry iden-  
 45 tification cardholder.

1 (4)(a) A registry identification cardholder and the designated primary caregiver of the  
 2 cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule  
 3 of the Department of Human Services.

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

7 **SECTION 4.** ORS 475.323 is amended to read:

8 **475.323. (1)(a) A registry identification cardholder, a person responsible for a marijuana**  
 9 **grow site and a designated primary caregiver are subject to inspection under the circum-**  
 10 **stances described in ORS 475.304. The Department of Human Services shall revoke the reg-**  
 11 **istry identification card, marijuana grow site registration card or designated primary**  
 12 **caregiver identification card of a person who fails to allow an inspection under the circum-**  
 13 **stances described in ORS 475.304.**

14 **(b) If a person responsible for a marijuana grow site or a designated primary caregiver**  
 15 **fails to allow an inspection under the circumstances described in ORS 475.304, the depart-**  
 16 **ment shall immediately notify the registry identification cardholder. Unless the department**  
 17 **or a law enforcement agency has probable cause to believe that a registry identification**  
 18 **cardholder has violated a provision of ORS 475.300 to 475.346, the registry identification**  
 19 **cardholder shall have 24 hours to take possession of any usable marijuana, plants, seedlings**  
 20 **and seeds associated with the production of marijuana for the cardholder.**

21 *[(1) Possession of a registry identification card or designated primary caregiver identification card*  
 22 *pursuant to ORS 475.309 does not alone constitute probable cause to search the person or property of*  
 23 *the cardholder or otherwise subject the person or property of the cardholder to inspection by any gov-*  
 24 *ernmental agency.]*

25 (2) Any property interest possessed, owned or used in connection with the medical use of  
 26 marijuana or acts incidental to the medical use of marijuana that has been seized by state or local  
 27 law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession  
 28 of any law enforcement agency. A law enforcement agency has no responsibility to maintain live  
 29 marijuana plants lawfully seized. No such property interest may be forfeited under any provision of  
 30 law providing for the forfeiture of property other than as a sentence imposed after conviction of a  
 31 criminal offense. Usable marijuana and paraphernalia used to administer marijuana that was seized  
 32 by any law enforcement office shall be returned immediately upon a determination by the district  
 33 attorney in whose county the property was seized, or the district attorney's designee, that the per-  
 34 son from whom the marijuana or paraphernalia used to administer marijuana was seized is entitled  
 35 to the protections contained in ORS 475.300 to 475.346. The determination may be evidenced, for  
 36 example, by a decision not to prosecute, the dismissal of charges or acquittal.

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