

House Bill 2176

Sponsored by Representative COWAN (at the request of Rob Bovett and Oregon Narcotics Enforcement Association) (Pre-session filed.)

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 offense of frequenting place where controlled substances are unlawfully used to apply to person who knowingly frequents or remains at place where controlled substances are unlawfully used.

Authorizes court to defer proceedings and place person on probation if person pleads guilty to or is found guilty of frequenting place where controlled substances are unlawfully used.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the offense of frequenting a place where controlled substances are unlawfully used;
3 creating new provisions; amending ORS 167.222 and 475.245; and declaring an emergency.

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

5 **SECTION 1.** ORS 167.222 is amended to read:

6 167.222. (1) A person commits the offense of frequenting a place where controlled substances are
7 **unlawfully** used if the person **knowingly** keeps, maintains, frequents[,] or remains at a place[, *while*
8 *knowingly permitting*] **where** persons **are permitted** to use, **possess or deliver** controlled sub-
9 stances [*in such place or to keep or sell them*], in violation of ORS 475.005 to 475.285 and 475.840 to
10 475.980.

11 (2) Frequenting a place where controlled substances are **unlawfully** used is a Class A
12 misdemeanor.

13 (3) Notwithstanding subsection (2) of this section, if the conviction is for knowingly **keeping**,
14 maintaining, frequenting or remaining at a place where less than one avoirdupois ounce of the dried
15 leaves, stems, and flowers of the plant Cannabis family Moraceae is found at the time of the offense
16 under this section, frequenting a place where controlled substances are **unlawfully** used is a Class
17 D violation.

18 (4) As used in this section, "frequents" means repeatedly or habitually visits, goes to or resorts
19 to.

20 **SECTION 2.** ORS 475.245 is amended to read:

21 475.245. [*Whenever any*] **If a** person pleads guilty to or is found guilty of possession of a con-
22 trolled substance under ORS 475.840 (3), 475.854, 475.864, 475.874, 475.884 or 475.894, **frequenting**
23 **a place where controlled substances are unlawfully used under ORS 167.222** or [*of*] a property
24 offense that is motivated by a dependence on a controlled substance, the court, without entering a
25 judgment of guilt and with the consent of the district attorney and the accused, may defer further
26 proceedings and place the person on probation. Upon violation of a term or condition of probation,
27 the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment
28 of the terms and conditions, the court shall discharge the person and dismiss the proceedings against

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 the person. Discharge and dismissal under this section [*shall be*] **is** without adjudication of guilt and
2 is not a conviction for purposes of this section or for purposes of disqualifications or disabilities
3 imposed by law upon conviction of a crime. There may be only one discharge and dismissal under
4 this section with respect to any person.

5 **SECTION 3. The amendments to ORS 167.222 by section 1 of this 2011 Act apply to of-**
6 **fenses committed on or after the effective date of this 2011 Act.**

7 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**
8 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
9 **on its passage.**

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