

House Bill 2178

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**.

Includes preschool in meaning of school for purposes of controlled substance offenses committed within 1,000 feet of school.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to controlled substance offenses within 1,000 feet of a school; creating new provisions;
3 amending ORS 430.590, 475.848, 475.852, 475.858, 475.860, 475.862, 475.864, 475.868, 475.872,
4 475.878, 475.882, 475.888, 475.892 and 475.904; and declaring an emergency.

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

5 **SECTION 1.** ORS 430.590 is amended to read:

6 430.590. (1) It is unlawful for any person to commence operating a methadone clinic:

7 (a) Within 1,000 feet of the real property comprising an existing public or private [*elementary,*
8 *secondary or career school*] **preschool or school** attended primarily by minors; or

9 (b) Within 1,000 feet of the real property comprising an existing licensed child care facility. As
10 used in this section, "licensed child care facility" means a child care center certified under ORS
11 657A.280 that is operating under authority of a valid business license.

12 (2) Commencing operation of a methadone clinic within 1,000 feet of a **preschool**, school or li-
13 censed child care facility is a nuisance and operation of the clinic shall be enjoined and abated as
14 provided in ORS 105.550 to 105.600.

15 **SECTION 2.** ORS 475.848 is amended to read:

16 475.848. (1) It is unlawful for any person to manufacture heroin within 1,000 feet of the real
17 property comprising a public or private [*elementary, secondary or career school*] **preschool or school**
18 attended primarily by minors.

19 (2) Unlawful manufacture of heroin within 1,000 feet of a school is a Class A felony.

20 **SECTION 3.** ORS 475.852 is amended to read:

21 475.852. (1) It is unlawful for any person to deliver heroin within 1,000 feet of the real property
22 comprising a public or private [*elementary, secondary or career school*] **preschool or school** attended
23 primarily by minors.

24 (2) Unlawful delivery of heroin within 1,000 feet of a school is a Class A felony.

25 **SECTION 4.** ORS 475.858 is amended to read:

26 475.858. (1) It is unlawful for any person to manufacture marijuana within 1,000 feet of the real
27 property comprising a public or private [*elementary, secondary or career school*] **preschool or school**
28 attended primarily by minors.

29 (2) Unlawful manufacture of marijuana within 1,000 feet of a school is a Class A felony.
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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.

SECTION 5. ORS 475.860 is amended to read:

475.860. (1) It is unlawful for any person to deliver marijuana.

(2) Unlawful delivery of marijuana is a:

(a) Class B felony if the delivery is for consideration.

(b) Class C felony if the delivery is for no consideration.

(3) Notwithstanding subsection (2) of this section, unlawful delivery of marijuana is a:

(a) Class A misdemeanor, if the delivery is for no consideration and consists of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae; or

(b) Violation, if the delivery is for no consideration and consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this paragraph is punishable by a fine of not less than \$500 and not more than \$1,000. Fines collected under this paragraph shall be forwarded to the Department of Revenue for deposit in the Criminal Fine and Assessment Account established in ORS 137.300.

(4) Notwithstanding subsections (2) and (3) of this section, unlawful delivery of marijuana is a:

(a) Class A felony, if the delivery is to a person under 18 years of age and the defendant is at least 18 years of age and is at least three years older than the person to whom the marijuana is delivered; or

(b) Class C misdemeanor, if the delivery:

(A) Is for no consideration;

(B) Consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae;

(C) Takes place in a public place, as defined in ORS 161.015, that is within 1,000 feet of the real property comprising a public or private *[elementary, secondary or career school]* **preschool or school** attended primarily by minors; and

(D) Is to a person who is 18 years of age or older.

SECTION 6. ORS 475.862 is amended to read:

475.862. (1) It is unlawful for any person to deliver marijuana within 1,000 feet of the real property comprising a public or private *[elementary, secondary or career school]* **preschool or school** attended primarily by minors.

(2) Unlawful delivery of marijuana within 1,000 feet of a school is a Class A felony.

SECTION 7. ORS 475.864 is amended to read:

475.864. (1) It is unlawful for any person knowingly or intentionally to possess marijuana.

(2) Unlawful possession of marijuana is a Class B felony.

(3) Notwithstanding subsection (2) of this section, unlawful possession of marijuana is a violation if the amount possessed is less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this subsection is punishable by a fine of not less than \$500 and not more than \$1,000. Fines collected under this subsection shall be forwarded to the Department of Revenue for deposit in the Criminal Fine and Assessment Account established under ORS 137.300.

(4) Notwithstanding subsections (2) and (3) of this section, unlawful possession of marijuana is a Class C misdemeanor if the amount possessed is less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae and the possession takes place in a public place, as defined in ORS 161.015, that is within 1,000 feet of the real property comprising a public or private *[elementary, secondary or career school]* **preschool or school** attended primarily by minors.

SECTION 8. ORS 475.868 is amended to read:

475.868. (1) It is unlawful for any person to manufacture 3,4-methylenedioxymethamphetamine within 1,000 feet of the real property comprising a public or private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

(2) Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of a school is a Class A felony.

SECTION 9. ORS 475.872 is amended to read:

475.872. (1) It is unlawful for any person to deliver 3,4-methylenedioxymethamphetamine within 1,000 feet of the real property comprising a public or private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

(2) Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of a school is a Class A felony.

SECTION 10. ORS 475.878 is amended to read:

475.878. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to 475.980, it is unlawful for any person to manufacture cocaine within 1,000 feet of the real property comprising a public or private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

(2) Unlawful manufacture of cocaine within 1,000 feet of a school is a Class A felony.

SECTION 11. ORS 475.882 is amended to read:

475.882. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to 475.980, it is unlawful for any person to deliver cocaine within 1,000 feet of the real property comprising a public or private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

(2) Unlawful delivery of cocaine within 1,000 feet of a school is a Class A felony.

SECTION 12. ORS 475.888 is amended to read:

475.888. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to 475.980, it is unlawful for any person to manufacture methamphetamine within 1,000 feet of the real property comprising a public or private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

(2) Unlawful manufacture of methamphetamine within 1,000 feet of a school is a Class A felony.

SECTION 13. ORS 475.892 is amended to read:

475.892. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to 475.980, it is unlawful for any person to deliver methamphetamine within 1,000 feet of the real property comprising a public or private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

(2) Unlawful delivery of methamphetamine within 1,000 feet of a school is a Class A felony.

SECTION 14. ORS 475.904 is amended to read:

475.904. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to 475.980, it is unlawful for any person to manufacture or deliver a schedule I, II or III controlled substance within 1,000 feet of the real property comprising a public or private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

(2) Unlawful manufacture or delivery of a controlled substance within 1,000 feet of a school is a Class A felony, except as otherwise provided in ORS 475.860.

SECTION 15. The amendments to ORS 430.590, 475.848, 475.852, 475.858, 475.860, 475.862, 475.864, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 and 475.904 by sections 1 to 14 of this 2011 Act apply to conduct occurring on or after the effective date of this 2011 Act.

SECTION 16. This 2011 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
2 **on its passage.**

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