

House Bill 3103

Sponsored by Representative HICKS

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**.

Prohibits issuance of registry identification cards for medical marijuana to persons under 18 years of age.

A BILL FOR AN ACT

1
2 Relating to medical marijuana; amending ORS 475.309.

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

4 **SECTION 1.** ORS 475.309 is amended to read:

5 475.309. (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or as-
6 sisting in the medical use of marijuana is excepted from the criminal laws of the state for possession,
7 delivery or production of marijuana, aiding and abetting another in the possession, delivery or pro-
8 duction of marijuana or any other criminal offense in which possession, delivery or production of
9 marijuana is an element if the following conditions [*have been*] **are** satisfied:

10 (a) The person holds a registry identification card issued pursuant to this section, has applied
11 for a registry identification card [*pursuant to subsection (9) of this section*], is the designated primary
12 caregiver of the cardholder or applicant, or is the person responsible for a marijuana grow site that
13 is producing marijuana for the cardholder and is registered under ORS 475.304; and

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

18 (2) The Oregon Health Authority shall establish and maintain a program for the issuance of
19 registry identification cards to persons who meet the requirements of this section. [*Except as pro-*
20 *vided in subsection (3) of this section,*] The authority shall issue a registry identification card to any
21 person **18 years of age or older** who pays a fee in the amount established by the authority and
22 provides the following:

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

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

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

28 (d) The name and address of the person's designated primary caregiver, if the person has des-
29 ignated a primary caregiver at the time of application; and

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

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 other location.

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

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

9 [(b) *The custodial parent or legal guardian with responsibility for health care decisions for the*
10 *person under 18 years of age consents to the use of marijuana by the person under 18 years of age for*
11 *medical purposes;*]

12 [(c) *The custodial parent or legal guardian with responsibility for health care decisions for the*
13 *person under 18 years of age agrees to serve as the designated primary caregiver for the person under*
14 *18 years of age; and]*

15 [(d) *The custodial parent or legal guardian with responsibility for health care decisions for the*
16 *person under 18 years of age agrees to control the acquisition of marijuana and the dosage and fre-*
17 *quency of use by the person under 18 years of age.*]

18 [(4)] (3) A person applying for a registry identification card pursuant to this section may submit
19 the **required** information [*required in this section*] to a county health department for transmittal to
20 the authority. A county health department that receives the information pursuant to this subsection
21 shall transmit the information to the authority within five days of receipt of the information. Infor-
22 mation received by a county health department pursuant to this subsection [*shall be*] **is** confidential
23 and **is** not subject to disclosure, except as required to transmit the information to the authority.

24 [(5)(a)] (4)(a) The authority shall verify the information contained in an application submitted
25 pursuant to this section and shall approve or deny an application within [*thirty*] **30** days of receipt
26 of the application.

27 (b) In addition to the authority granted to the authority under ORS 475.316 to deny an applica-
28 tion, the authority may deny an application for the following reasons:

29 (A) The applicant did not provide the information required [*pursuant to this section*] to establish
30 the applicant's debilitating medical condition and to document the applicant's consultation with an
31 attending physician regarding the medical use of marijuana in connection with [*such*] **the** condition,
32 as provided in [*subsections (2) and (3)*] **subsection (2)** of this section;

33 (B) The authority determines that the information provided was falsified; or

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

36 (c) Denial of a registry identification card shall be considered a final authority action, subject
37 to judicial review. Only the person whose application has been denied[, *or, in the case of a person*
38 *under the age of 18 years of age whose application has been denied, the person's parent or legal*
39 *guardian, shall have*] **has** standing to contest the authority's action.

40 (d) [*Any*] **A** person whose application has been denied may not reapply for six months from the
41 date of the denial, unless [*so*] authorized by the authority or a court of competent jurisdiction.

42 [(6)(a)] (5)(a) If the authority has verified the information submitted pursuant to [*subsections (2)*
43 *and (3)*] **subsection (2)** of this section and none of the reasons for denial listed in subsection
44 [(5)(b)] (4)(b) of this section is applicable, the authority shall issue a serially numbered registry
45 identification card within five days of verification of the information. The registry identification card

1 shall state:

- 2 (A) The cardholder's name, address and date of birth;
- 3 (B) The date of issuance and expiration date of the registry identification card;
- 4 (C) The name and address of the person's designated primary caregiver, if any;
- 5 (D) Whether the marijuana used by the cardholder will be produced at a location where the
- 6 cardholder or designated primary caregiver is present or at another location; and
- 7 (E) Any other information that the authority may specify by rule.

8 (b) When the person to whom the authority has issued a registry identification card pursuant
 9 to this section has specified a designated primary caregiver, the authority shall issue an identifica-
 10 tion card to the designated primary caregiver. The primary caregiver's registry identification card
 11 [shall] **must** contain the information provided in paragraph (a) of this subsection.

12 [(7)(a)] **(6)(a)** A person who possesses a registry identification card shall:

13 (A) Notify the authority of any change in the person's name, address, attending physician or
 14 designated primary caregiver.

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

- 18 (i) The assignment of another individual as the designated primary caregiver of the cardholder;
- 19 (ii) The assignment of another individual as the person responsible for a marijuana grow site
- 20 producing marijuana for the cardholder; or
- 21 (iii) The end of the eligibility of the cardholder to hold a valid registry identification card.

22 (C) Annually submit to the authority:

- 23 (i) Updated written documentation from the cardholder's attending physician of the person's
- 24 debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or
- 25 effects of the person's debilitating medical condition; and
- 26 (ii) The name of the person's designated primary caregiver if a primary caregiver has been
- 27 designated for the upcoming year.

28 (b) If a person who possesses a registry identification card fails to comply with this subsection,
 29 the card [shall be] **is** deemed expired. If a registry identification card expires, the identification card
 30 of any designated primary caregiver of the cardholder [shall also expire] **also expires**.

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

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

42 [(9)] **(8)** A person who has applied for a registry identification card pursuant to this section but
 43 whose application has not yet been approved or denied, and who is contacted by [any] a law
 44 enforcement officer in connection with the person's administration, possession, delivery or pro-
 45 duction of marijuana for medical use may provide to the law enforcement officer a copy of the

1 written documentation submitted to the authority pursuant to subsection (2) [or (3)] of this section
2 and proof of the date of mailing or other transmission of the documentation to the authority. This
3 documentation [shall have] **has** the same legal effect as a registry identification card until [such time
4 as] the person receives notification that the application [has been] **is** approved or denied.

5 [(10)] **(9)** A registry identification cardholder has the primary responsibility of notifying the
6 primary caregiver and person responsible for the marijuana grow site that produces marijuana for
7 the cardholder of any change in status of the cardholder. If the authority is notified by the
8 cardholder that a primary caregiver or person responsible for a marijuana grow site has changed,
9 the authority shall notify the primary caregiver or the person responsible for the marijuana grow
10 site by mail at the address of record confirming the change in status and informing the caregiver
11 or person that [their] **the caregiver's or person's** card is no longer valid and must be returned to
12 the authority.

13 [(11)] **(10)** The authority shall revoke the registry identification card of a cardholder if a court
14 [has issued] **issues** an order that prohibits the cardholder from participating in the medical use of
15 marijuana or otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300
16 to 475.346. The cardholder shall return the registry identification card to the authority within seven
17 calendar days [of] **after** notification of the revocation. If the cardholder is a patient, the patient
18 shall return the patient's card and all other associated Oregon Medical Marijuana Program cards.

19 [(12)] **(11)** The authority and employees and agents of the authority acting within the course and
20 scope of their employment are immune from any civil liability that might be incurred or imposed for
21 the performance of or failure to perform duties required by this section.
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