

House Bill 3132

Sponsored by Representative OLSON; Representatives DOHERTY, FREEMAN, JOHNSON, KRIEGER, SCHAUFLE, SPRENGER, THOMPSON, WHISNANT, Senators KRUSE, MORSE, THOMSEN

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 relating to registry identification card for medical use of marijuana.

Provides that Oregon Health Authority shall revoke registry identification card if cardholder is convicted of drug crime.

A BILL FOR AN ACT

1
2 Relating to the Oregon Medical Marijuana Program; 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 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 who pays a fee in the amount established by the authority and provides the following:

22 (a) Valid, written documentation from the person's attending physician stating that the person
23 has been diagnosed with a debilitating medical condition and that the medical use of marijuana
24 [*may*] **will provide therapeutic value and** mitigate the symptoms or effects of the person's debili-
25 tating 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

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 produced at a location where the cardholder or designated primary caregiver is present or at an-
2 other location.

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

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

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

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

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

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

25 (5)(a) The authority shall verify the information contained in an application submitted pursuant
26 to this section and shall approve or deny an application within thirty days of receipt of the appli-
27 cation.

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

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

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

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

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

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

43 (6)(a) If the authority has verified the information submitted pursuant to subsections (2) and (3)
44 of this section and none of the reasons for denial listed in subsection (5)(b) of this section is appli-
45 cable, the authority shall issue a serially numbered registry identification card within five days of

1 verification of the information. The registry identification card 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 contain the information provided in paragraph (a) of this subsection.

12 (7)(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*] **provides**
25 **therapeutic value and mitigates** the symptoms or effects of the person's debilitating medical con-
26 dition; and

27 (ii) The name of the person's designated primary caregiver if a primary caregiver has been
28 designated for the upcoming year.

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

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

38 (b) If, due to **documented** circumstances beyond the control of the registry identification
39 cardholder, a cardholder is unable to obtain a second medical opinion about the cardholder's con-
40 tinuing eligibility to use medical marijuana before the 30-day period specified in paragraph (a) of this
41 subsection has expired, the authority may grant the cardholder **an** additional [*time*] **15 days** to ob-
42 tain a second opinion before requiring the cardholder to return the registry identification card and
43 any associated cards.

44 (9) A person who has applied for a registry identification card pursuant to this section but
45 whose application has not yet been approved or denied, and who is contacted by any law enforce-

1 ment officer in connection with the person’s administration, possession, delivery or production of
 2 marijuana for medical use may provide to the law enforcement officer a copy of the written doc-
 3 umentation submitted to the authority pursuant to subsection (2) or (3) of this section and proof of
 4 the date of mailing or other transmission of the documentation to the authority. This documentation
 5 [*shall have*] **has** the same legal effect as a registry identification card [*until such time as the person*
 6 *receives notification that the application has been approved or denied*] **for 30 days after the doc-**
 7 **umentation is submitted.**

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

15 (11) The authority shall revoke the registry identification card of a cardholder if:

16 (a) A court has issued an order that prohibits the cardholder from participating in the medical
 17 use of marijuana or otherwise participating in the Oregon Medical Marijuana Program under ORS
 18 475.300 to 475.346; or

19 (b) **After being issued a registry identification card, the cardholder is convicted of a**
 20 **crime under ORS 475.005 to 475.285 and 475.840 to 475.980.**

21 (12) **If a registry identification cardholder’s registry identification card is revoked,** the
 22 cardholder shall return the registry identification card to the authority within seven calendar days
 23 of notification of the revocation. If the cardholder is a patient, the patient shall return the patient’s
 24 card and all other associated Oregon Medical Marijuana Program cards.

25 [(12)] (13) The authority and employees and agents of the authority acting within the course and
 26 scope of their employment are immune from any civil liability that might be incurred or imposed for
 27 the performance of or failure to perform duties required by this section.

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