

# House Bill 3202

Sponsored by Representatives ESQUIVEL, GARRARD; Representatives HANNA, KRIEGER, MATTHEWS, SCHAUFLER, SPRENGER, THATCHER, Senator ATKINSON

## 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 of Oregon Medical Marijuana Act.

## A BILL FOR AN ACT

1  
2 Relating to medical use of marijuana; creating new provisions; amending ORS 475.302, 475.303,  
3 475.304, 475.306, 475.309, 475.316, 475.319, 475.320, 475.323, 475.324, 475.326, 475.328 and 475.331;  
4 and repealing ORS 475.312.

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

6 **SECTION 1.** ORS 475.302 is amended to read:

7 475.302. As used in ORS 475.300 to 475.346:

8 [(1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary  
9 responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.]

10 [(2) "Authority" means the Oregon Health Authority.]

11 [(3)] (1) "Debilitating medical condition" means:

12 (a) Cancer, glaucoma, agitation due to Alzheimer's disease, positive status for human  
13 immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

14 (b) A medical condition or treatment for a medical condition that produces, for a specific pa-  
15 tient, one or more of the following:

16 (A) Cachexia;

17 (B) Severe **chronic** pain;

18 (C) Severe nausea;

19 (D) Seizures, including but not limited to seizures caused by epilepsy; or

20 (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

21 or

22 (c) Any other medical condition or treatment for a medical condition adopted by the **Oregon**  
23 **Health** Authority by rule or approved by the authority pursuant to a petition submitted pursuant  
24 to ORS 475.334.

25 [(4)] (2) "Delivery" has the meaning given that term in ORS 475.005. [*"Delivery" does not include*  
26 *transfer of marijuana by a registry identification cardholder to another registry identification*  
27 *cardholder if no consideration is paid for the transfer.*]

28 [(5) "Designated primary caregiver" means an individual 18 years of age or older who has signif-  
29 icant responsibility for managing the well-being of a person who has been diagnosed with a debilitating  
30 medical condition and who is designated as such on that person's application for a registry identifica-  
31 tion card or in other written notification to the authority. "Designated primary caregiver" does not in-

**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 *clude the person's attending physician.]*

2 [(6)] (3) "Marijuana" has the meaning given that term in ORS 475.005.

3 [(7)] (4) "Marijuana grow site" means a location where marijuana is produced for use by a reg-  
4 istry identification cardholder and that is registered under the provisions of ORS 475.304.

5 [(8)] (5) "Medical use of marijuana" means the production, possession, delivery, or adminis-  
6 tration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive  
7 benefit of a person to mitigate the symptoms or effects of the person's debilitating medical condition.

8 [(9)] (6) "Production" has the meaning given that term in ORS 475.005.

9 [(10)] (7) "Registry identification card" means a document issued by the authority that identifies  
10 a person authorized to engage in the medical use of marijuana [*and the person's designated primary*  
11 *caregiver, if any*].

12 [(11)] (8) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family  
13 Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed  
14 in ORS 475.300 to 475.346. "Usable marijuana" does not include the seeds, stalks and roots of the  
15 plant.

16 [(12)] (9) "Written documentation" means a statement signed by the [*attending*] **primary care**  
17 **physician** of a person diagnosed with a debilitating medical condition or copies of the person's rel-  
18 evant medical records.

19 **SECTION 2.** ORS 475.303 is amended to read:

20 475.303. (1) There is created the Advisory Committee on Medical Marijuana in the Oregon  
21 Health Authority, consisting of 11 members appointed by the Director of the Oregon Health Au-  
22 thority.

23 (2) The director shall appoint [*members of the committee from persons who possess registry iden-*  
24 *tification cards, designated primary caregivers of persons who possess registry identification cards and*  
25 *advocates of the Oregon Medical Marijuana Act.*] **to the committee:**

26 **(a) At least one person who possesses a registry identification card;**

27 **(b) At least three physicians licensed under ORS chapter 677;**

28 **(c) At least three persons who work in the field of drug addiction recovery; and**

29 **(d) At least one person who is an advocate of the Oregon Medical Marijuana Act.**

30 (3) The committee shall advise the director on the administrative aspects of the Oregon Medical  
31 Marijuana Program, review current and proposed administrative rules of the program and provide  
32 annual input on the fee structure of the program.

33 (4) The committee shall meet at least four times per year, at times and places specified by the  
34 director.

35 (5) The authority shall provide staff support to the committee.

36 (6) All agencies of state government, as defined in ORS 174.111, are directed to assist the com-  
37 mittee in the performance of its duties and, to the extent permitted by laws relating to  
38 confidentiality, to furnish information and advice that the members of the committee consider nec-  
39 essary to perform their duties.

40 **SECTION 3.** ORS 475.304 is amended to read:

41 475.304. (1)(a) The Oregon Health Authority shall establish by rule a marijuana grow site reg-  
42 istration system to authorize production of marijuana by a registry identification cardholder[, *a*  
43 *designated primary caregiver who grows marijuana for the cardholder*] or a person who is responsible  
44 for a marijuana grow site. The marijuana grow site registration system adopted must require a  
45 registry identification cardholder to submit an application to the authority that includes:

1 [(a)] (A) The name of the person responsible for the marijuana grow site;

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

3 [(c)] (C) The registry identification card number of the registry cardholder for whom the  
4 marijuana is being produced; [and]

5 (D) **An agreement signed by the person responsible for the marijuana grow site author-**  
6 **izing any law enforcement agency to inspect the marijuana grow site for compliance with**  
7 **ORS 475.300 to 475.346; and**

8 [(d)] (E) Any other information the authority considers necessary.

9 (b) **A marijuana grow site may produce marijuana for no more than four registry iden-**  
10 **tification cardholders.**

11 (c) **A marijuana grow site may not be operated at an address that is within 1,000 feet of**  
12 **a school in violation of ORS 475.858.**

13 (2) The authority shall issue a marijuana grow site registration card to a registry identification  
14 cardholder who has met the requirements of subsection (1) of this section.

15 (3) A person who has been issued a marijuana grow site registration card under this section  
16 must:

17 (a) Display the registration card at the marijuana grow site at all times when marijuana is being  
18 produced[.]; **and**

19 (b) **Annually submit to the authority updated information as required in subsection (1)(a)**  
20 **of this section, including the agreement required by subsection (1)(a)(D) of this section.**

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

23 (5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana  
24 for a registry identification cardholder by a person responsible for a marijuana grow site are the  
25 property of the registry identification cardholder and must be provided to the registry identification  
26 cardholder upon request.

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

29 (b) A person convicted of a Class A or Class B felony under ORS 475.840 to 475.920 for the  
30 manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued  
31 a marijuana grow site registration card or produce marijuana for a registry identification cardholder  
32 for [five] 15 years from the date of conviction.

33 (c) A person convicted more than once of a Class A or Class B felony under ORS 475.840 to  
34 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may  
35 not be issued a marijuana grow site registration card or produce marijuana for a registry identifi-  
36 cation cardholder.

37 (7) A registry identification cardholder [*or the designated primary caregiver of the cardholder*]  
38 may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities  
39 associated with the production of marijuana for the registry identification cardholder. No other  
40 costs associated with the production of marijuana for the registry identification cardholder, includ-  
41 ing the cost of labor, may be reimbursed.

42 **SECTION 4.** ORS 475.306 is amended to read:

43 475.306. (1) A person who possesses a registry identification card issued pursuant to ORS 475.309  
44 may engage in[, and a designated primary caregiver of such a person may assist in,] the medical use  
45 of marijuana only as justified to mitigate the symptoms or effects of the person's debilitating medical

1 condition.

2 (2) A person who is a registry identification cardholder must possess the registry identification  
3 card when using or transporting marijuana in a location other than the residence of the cardholder.

4 (3) The Oregon Health Authority shall define by rule when a marijuana plant is mature and  
5 when it is immature. The rule shall provide that a plant that has no flowers and that is less than  
6 12 inches in height and less than 12 inches in diameter is a seedling or a start and is not a mature  
7 plant.

8 **SECTION 5.** ORS 475.309 is amended to read:

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

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

18 (b) The person who has a debilitating medical condition[, *the person's primary caregiver*] and the  
19 person responsible for a marijuana grow site that is producing marijuana for the cardholder and is  
20 registered under ORS 475.304 are [*collectively*] in possession of, delivering or producing marijuana  
21 for medical use in amounts allowed under ORS 475.320.

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

27 (a) Valid, written documentation from the person's [*attending*] **primary care** physician stating:

28 **(A)** That the person has been diagnosed with a debilitating medical condition [*and*];

29 **(B)** That the medical use of marijuana may mitigate the symptoms or effects of the person's  
30 debilitating medical condition;

31 **(C) The amount of marijuana recommended by the physician to treat the person's debil-**  
32 **itating medical condition; and**

33 **(D) That the physician has discussed the potential medical risks and benefits of the**  
34 **medical use of marijuana with the person;**

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

36 (c) The name, address and telephone number of the person's [*attending*] **primary care** physician;  
37 **and**

38 [*d) The name and address of the person's designated primary caregiver, if the person has desig-*  
39 *nated a primary caregiver at the time of application; and*]

40 [*e)*] **(d)** A written statement that indicates whether the marijuana used by the cardholder will  
41 be produced at a location where the cardholder [*or designated primary caregiver*] is present or at  
42 another location.

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

1 *age signs a written statement that:]*

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

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

8 [(c) *The custodial parent or legal guardian with responsibility for health care decisions for the*  
9 *person under 18 years of age agrees to serve as the designated primary caregiver for the person under*  
10 *18 years of age; and]*

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

14 [(4)] (3) A person applying for a registry identification card pursuant to this section may submit  
15 the information required in this section to a county health department for transmittal to the au-  
16 thority. A county health department that receives the information pursuant to this subsection shall  
17 transmit the information to the authority within five days of receipt of the information. Information  
18 received by a county health department pursuant to this subsection [*shall be*] **is** confidential and not  
19 subject to disclosure, except as required to transmit the information to the authority.

20 (4)(a) **The authority shall conduct a criminal records check under ORS 181.534 on a per-**  
21 **son who applies for a registry identification card.**

22 (b) **A person convicted of a Class A or Class B felony under ORS 475.840 to 475.920 for**  
23 **the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not**  
24 **be issued a registry identification card for 15 years from the date of conviction.**

25 (c) **A person convicted more than once of a Class A or Class B felony under ORS 475.840**  
26 **to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule**  
27 **II may not be issued a registry identification card.**

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

31 (b) In addition to the [*authority*] **power** granted to the authority under ORS 475.316 to deny an  
32 application, the authority may deny an application for the following reasons:

33 (A) The applicant did not provide the information required pursuant to this section to establish  
34 the applicant's debilitating medical condition and to document the applicant's consultation with [*an*  
35 *attending*] **the applicant's primary care** physician regarding the medical use of marijuana in con-  
36 nection with such condition, as provided in [*subsections (2) and (3)*] **subsection (2)** of this section;

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

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

40 (c) Denial of a registry identification card [*shall be considered*] **is** a final authority action, sub-  
41 ject to judicial review. Only the person whose application has been denied[, *or, in the case of a*  
42 *person under the age of 18 years of age whose application has been denied, the person's parent or legal*  
43 *guardian, shall have*] **has** standing to contest the authority's action.

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

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

6 [(A)] **(a)** The cardholder's name, address and date of birth;

7 [(B)] **(b)** The date of issuance and expiration date of the registry identification card;

8 [(C)] *The name and address of the person's designated primary caregiver, if any;*

9 [(D)] **(c)** Whether the marijuana used by the cardholder will be produced at a location where  
 10 the cardholder [*or designated primary caregiver*] is present or at another location; and

11 [(E)] **(d)** Any other information that the authority may specify by rule.

12 [(b) *When the person to whom the authority has issued a registry identification card pursuant to  
 13 this section has specified a designated primary caregiver, the authority shall issue an identification  
 14 card to the designated primary caregiver. The primary caregiver's registry identification card shall  
 15 contain the information provided in paragraph (a) of this subsection.*]

16 (7)(a) A person who possesses a registry identification card shall:

17 (A) Notify the authority of any change in the person's name, address[, *attending*] **or primary**  
 18 **care** physician [*or designated primary caregiver*].

19 (B) If applicable, notify the [*designated primary caregiver of the cardholder and the*] person re-  
 20 sponsible for the marijuana grow site that produces marijuana for the cardholder of any change in  
 21 status including, but not limited to:

22 [(i) *The assignment of another individual as the designated primary caregiver of the cardholder;*]

23 [(ii)] **(i)** The assignment of another individual as the person responsible for a marijuana grow  
 24 site producing marijuana for the cardholder; or

25 [(iii)] **(ii)** The end of the eligibility of the cardholder to hold a valid registry identification card.

26 (C) Annually submit to the authority[:]

27 [(i)] updated written documentation from the cardholder's [*attending physician of the person's*  
 28 *debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or*  
 29 *effects of the person's debilitating medical condition; and*] **primary care physician as provided in**  
 30 **subsection (2)(a) of this section.**

31 [(ii) *The name of the person's designated primary caregiver if a primary caregiver has been des-*  
 32 *ignated for the upcoming year.*]

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

36 (8)(a) A person who possesses a registry identification card pursuant to this section and who  
 37 has been diagnosed by the person's [*attending*] **primary care** physician as no longer having a de-  
 38 bilitating medical condition or whose [*attending*] **primary care** physician has determined that the  
 39 medical use of marijuana is contraindicated for the person's debilitating medical condition shall re-  
 40 turn the registry identification card and any other associated Oregon Medical Marijuana Program  
 41 cards to the authority within 30 calendar days of notification of the diagnosis or notification of the  
 42 contraindication.

43 (b) If, due to circumstances beyond the control of the registry identification cardholder, a  
 44 cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility  
 45 to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has

1 expired, the authority may grant the cardholder additional time to obtain a second opinion before  
 2 requiring the cardholder to return the registry identification card and any associated cards.

3 *[(9) A person who has applied for a registry identification card pursuant to this section but whose  
 4 application has not yet been approved or denied, and who is contacted by any law enforcement officer  
 5 in connection with the person’s administration, possession, delivery or production of marijuana for  
 6 medical use may provide to the law enforcement officer a copy of the written documentation submitted  
 7 to the authority pursuant to subsection (2) or (3) of this section and proof of the date of mailing or other  
 8 transmission of the documentation to the authority. This documentation shall have the same legal effect  
 9 as a registry identification card until such time as the person receives notification that the application  
 10 has been approved or denied.]*

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

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

24 **(11) If a cardholder is charged with a crime as a result of noncompliance with the pro-  
 25 visions of ORS 475.300 to 475.346, the authority shall suspend the cardholder’s registry iden-  
 26 tification card. If the cardholder is convicted of the crime, the authority shall revoke the  
 27 cardholder’s registry identification card. If the cardholder is not convicted of the crime, the  
 28 authority shall reinstate the cardholder’s registry identification card.**

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

32 **SECTION 6.** ORS 475.316 is amended to read:

33 475.316. (1) *[No]* **A** person authorized to possess, deliver or produce marijuana for medical use  
 34 pursuant to ORS 475.300 to 475.346 *[shall be]* **is not** excepted from the criminal laws of this state  
 35 *[or shall be deemed to have established]* **and may not establish** an affirmative defense to criminal  
 36 charges of which possession, delivery or production of marijuana is an element if the person, in  
 37 connection with the facts giving rise to such charges:

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

39 (b) Engages in the **production or** medical use of marijuana in a public place as that term is  
 40 defined in ORS 161.015, *[or]* in public view or in a correctional facility as defined in ORS 162.135 (2)  
 41 or youth correction facility as defined in ORS 162.135 (6);

42 (c) Delivers marijuana to any *[individual who the person knows is not in possession of a registry  
 43 identification card]* **other person, unless the person delivering the marijuana is the person re-  
 44 sponsible for a grow site registered under ORS 475.304 to produce marijuana for the person  
 45 receiving the marijuana;**

1 (d) Delivers marijuana for consideration to any *[individual]* **person**, even if the *[individual]*  
 2 **person** is in possession of a registry identification card;

3 (e) Manufactures or produces marijuana at a place other than a marijuana grow site authorized  
 4 under ORS 475.304; or

5 (f) Manufactures or produces marijuana at more than one address.

6 (2) In addition to any other penalty allowed by law, a person who the Oregon Health Authority  
 7 finds has willfully violated the provisions of ORS 475.300 to 475.346, or rules adopted under ORS  
 8 475.300 to 475.346, may be precluded from obtaining or using a registry identification card for the  
 9 medical use of marijuana for a period of up to six months, at the discretion of the authority.

10 **SECTION 7.** ORS 475.319 is amended to read:

11 475.319. (1) Except as provided in ORS 475.316 and 475.342, it is an affirmative defense to a  
 12 criminal charge of possession or production of marijuana, or any other criminal offense in which  
 13 possession or production of marijuana is an element, that the person charged with the offense **pos-**  
 14 **sesses a registry identification card issued under ORS 475.309.** *[is a person who:]*

15 *[(a) Has been diagnosed with a debilitating medical condition within 12 months prior to arrest and*  
 16 *been advised by the person’s attending physician that the medical use of marijuana may mitigate the*  
 17 *symptoms or effects of that debilitating medical condition;]*

18 *[(b) Is engaged in the medical use of marijuana; and]*

19 *[(c) Possesses or produces marijuana only in amounts permitted under ORS 475.320.]*

20 *[(2) It is not necessary for a person asserting an affirmative defense pursuant to this section to have*  
 21 *received a registry identification card in order to assert the affirmative defense established in this sec-*  
 22 *tion.]*

23 *[(3) No person engaged in the medical use of marijuana who claims that marijuana provides med-*  
 24 *ically necessary benefits and who is charged with a crime pertaining to such use of marijuana shall*  
 25 *be precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from pre-*  
 26 *senting evidence supporting the necessity of marijuana for treatment of a specific disease or medical*  
 27 *condition, provided that the amount of marijuana at issue is no greater than permitted under ORS*  
 28 *475.320 and the patient has taken a substantial step to comply with the provisions of ORS 475.300 to*  
 29 *475.346.]*

30 *[(4)]* **(2)** *[Any]* **A** defendant proposing to use the affirmative defense provided for by this section  
 31 in a criminal action shall, not less than five days before the trial of the cause, file and serve upon  
 32 the district attorney a written notice of the intention to offer such a defense that specifically states  
 33 the reasons why the defendant is entitled to assert and the factual basis for such affirmative defense.  
 34 If the defendant fails to file and serve such notice, the defendant is not permitted to assert the af-  
 35 firmative defense at the trial of the cause unless the court for good cause orders otherwise.

36 **SECTION 8.** ORS 475.320 is amended to read:

37 475.320. (1)*[(a)]* A registry identification cardholder *[or the designated primary caregiver of the*  
 38 *cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana]* **may**  
 39 **possess up to two mature marijuana plants, two seedlings or starts, as defined by rule of the**  
 40 **Oregon Health Authority, and one ounce of usable marijuana.**

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



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

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

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

**(b) May possess, for each cardholder for whom marijuana is being produced:**

**(A) Up to two mature marijuana plants and two seedlings or starts, as defined by rule of the authority; or**

**(B) Sixteen ounces of usable marijuana.**

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

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

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

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

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

*[(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Oregon Health Authority.]*

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

**SECTION 9.** ORS 475.323 is amended to read:

475.323. (1) Possession of a registry identification card [or designated primary caregiver identification card] pursuant to ORS 475.309 does not alone constitute probable cause to search the person or property of the cardholder or otherwise subject the person or property of the cardholder to inspection by any governmental agency.

(2) Any property interest possessed, owned or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession of any law enforcement agency. A law enforcement agency has no responsibility to maintain live marijuana plants lawfully seized. No such property interest may be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense. Usable marijuana and paraphernalia used to administer marijuana that was seized by any law enforcement office shall be returned immediately upon a determination by the district

1 attorney in whose county the property was seized, or the district attorney's designee, that the per-  
 2 son from whom the marijuana or paraphernalia used to administer marijuana was seized is entitled  
 3 to the protections contained in ORS 475.300 to 475.346. The determination may be evidenced, for  
 4 example, by a decision not to prosecute, the dismissal of charges or acquittal.

5 **SECTION 10.** ORS 475.324 is amended to read:

6 475.324. A law enforcement officer who determines that a registry identification cardholder is  
 7 in possession of amounts of usable marijuana or numbers of marijuana plants in excess of the  
 8 amount or number authorized by ORS 475.320 may confiscate [*only any usable marijuana or plants*  
 9 *that are in excess of the amount or number authorized*] **all usable marijuana, marijuana plants and**  
 10 **equipment used to grow marijuana at the premises.**

11 **SECTION 11.** ORS 475.326 is amended to read:

12 475.326. [*No attending physician may be subjected to civil penalty or discipline by*] The Oregon  
 13 Medical Board **may not subject a primary care physician to civil penalty or discipline** for:

14 (1) Advising a person whom the [*attending*] physician has diagnosed as having a debilitating  
 15 medical condition, or a person who the [*attending*] physician knows has been so diagnosed by an-  
 16 other physician licensed under ORS chapter 677, about the risks and benefits of medical use of  
 17 marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's  
 18 debilitating medical condition, provided the advice is based on the [*attending*] physician's personal  
 19 assessment of the person's medical history and current medical condition; or

20 (2) Providing the written documentation necessary for issuance of a registry identification card  
 21 under ORS 475.309, if the documentation is based on the [*attending*] physician's personal assessment  
 22 of the applicant's medical history and current medical condition and the [*attending*] physician has  
 23 discussed the potential medical risks and benefits of the medical use of marijuana with the applicant.

24 **SECTION 12.** ORS 475.328 is amended to read:

25 475.328. (1) [*No*] **A** professional licensing board may **not** impose a civil penalty or take other  
 26 disciplinary action against a licensee based on the licensee's medical use of marijuana in accordance  
 27 with the provisions of ORS 475.300 to 475.346 [*or actions taken by the licensee that are necessary to*  
 28 *carry out the licensee's role as a designated primary caregiver to a person who possesses a lawful*  
 29 *registry identification card*].

30 (2)(a) A licensed health care professional may administer medical marijuana to a person who  
 31 possesses a registry identification card and resides in a licensed health care facility if the adminis-  
 32 tration of pharmaceuticals is within the scope of practice of the licensed health care professional.  
 33 Administration of medical marijuana under this subsection may not take place in a public place as  
 34 defined in ORS 161.015 or in the presence of a person under 18 years of age. If the medical  
 35 marijuana administered under this subsection is smoked, adequate ventilation must be provided.

36 (b) Nothing in this subsection requires:

37 (A) A licensed health care professional to administer medical marijuana; or

38 (B) A licensed health care facility to make accommodations for the administration of medical  
 39 marijuana.

40 **SECTION 13.** ORS 475.331 is amended to read:

41 475.331. (1)(a) The Oregon Health Authority shall create and maintain a list of the persons to  
 42 whom the authority has issued registry identification cards[, *the names of any designated primary*  
 43 *caregivers*] and the addresses of authorized marijuana grow sites. Except as provided in subsection  
 44 (2) of this section, the list [*shall be*] **is** confidential and not subject to public disclosure.

45 (b) The authority shall develop a system by which authorized employees of state and local law

1 enforcement agencies may verify at all times that a person is a lawful possessor of a registry iden-  
2 tification card [*or the designated primary caregiver of a lawful possessor of a registry identification*  
3 *card*] or that a location is an authorized marijuana grow site.

4 (2) Names and other identifying information from the list established pursuant to subsection (1)  
5 of this section may be released to:

6 (a) Authorized employees of the authority as necessary to perform official duties of the author-  
7 ity; and

8 (b) Authorized employees of state or local law enforcement agencies, [*only as necessary*] to verify  
9 that a person is a lawful possessor of a registry identification card [*or the designated primary*  
10 *caregiver of a lawful possessor of a registry identification card*] or that a location is an authorized  
11 marijuana grow site. Prior to being provided identifying information from the list, authorized em-  
12 ployees of state or local law enforcement agencies shall provide to the authority adequate identifi-  
13 cation, such as a badge number or similar authentication [*of authority*].

14 (3) Authorized employees of state or local law enforcement agencies that obtain identifying in-  
15 formation from the list as authorized under this section may not release or use the information for  
16 any purpose other than verification that a person is a lawful possessor of a registry identification  
17 card [*or the designated primary caregiver of a lawful possessor of a registry identification card*] or that  
18 a location is an authorized marijuana grow site.

19 **(4)(a) When the authority issues a grow site registration card, the authority shall notify**  
20 **all state and local law enforcement agencies having jurisdiction over the grow site.**

21 **(b) At least once each quarter, the authority shall provide all state and local law**  
22 **enforcement agencies with a list of registered grow sites.**

23 **SECTION 14. ORS 475.312 is repealed.**

24 **SECTION 15. The amendments to ORS 475.303 by section 2 of this 2011 Act:**

25 **(1) Apply to appointments to the Advisory Committee on Medical Marijuana made on or**  
26 **after the effective date of this 2011 Act; and**

27 **(2) Do not disqualify any member of the committee appointed before the effective date**  
28 **of this 2011 Act from completing the term to which the member was appointed.**

29