

# D R A F T

## SUMMARY

Provides for regulation of production, processing and sale of marijuana and marijuana-infused products. Directs Oregon Health Authority to license marijuana producers, marijuana processors, marijuana wholesalers and marijuana retailers.

Provides for taxation of marijuana production. Directs Oregon Liquor Control Commission to oversee taxation of marijuana. Provides for distribution of moneys collected as tax.

Punishes violations of Act by \$1,000 fine. Punishes certain other offenses by \$650 fine.

Limits applicability of crimes in this state related to manufacturing, distributing or possessing marijuana to person under 21 years of age or, for delivery of marijuana, to person who delivers marijuana to person under 21 years of age.

Becomes operative on July 1, 2014.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the Control, Regulation and Taxation of Cannabis Act; creating  
3 new provisions; amending ORS 90.396, 453.858, 475.005, 475.525, 475.856,  
4 475.860, 475.864, 475.900, 475.908, 475.910, 475.933 and 571.315; repealing  
5 ORS 475.059; appropriating money; and declaring an emergency.

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

7 **SECTION 1. Short title. Sections 1 to 47 of this 2013 Act shall be**  
8 **known and may be cited as the Control, Regulation and Taxation of**  
9 **Cannabis Act.**

10 **SECTION 2. Purposes and limitations. (1) The purposes of sections**  
11 **1 to 47 of this 2013 Act are:**

12 **(a) To establish a comprehensive state policy concerning Cannabis,**

1 which includes marijuana and industrial hemp under existing state  
2 law;

3 (b) To protect the safety, welfare, health and peace of the people  
4 of this state by better prioritizing the state's limited law enforcement  
5 resources;

6 (c) To eliminate the problems caused by the prohibition and un-  
7 controlled manufacture, delivery and possession of marijuana within  
8 this state; and

9 (d) To ensure that the State Department of Agriculture issues in-  
10 dustrial hemp licenses and agricultural hemp seed production permits  
11 in accordance with existing state law.

12 (2) Sections 1 to 47 of this 2013 Act may not be construed:

13 (a) To amend or affect in any way the definition or interpretation  
14 of the term "controlled substance":

15 (A) In any statute or rule that applies to the operation of a vehicle,  
16 boat or aircraft, including the Oregon Vehicle Code and ORS chapters  
17 830 and 837; or

18 (B) In any other statute or rule that does not expressly refer to the  
19 definition of "controlled substance" in ORS 475.005;

20 (b) To prohibit an employer from prohibiting the manufacture, de-  
21 livery, possession or use of marijuana in the workplace;

22 (c) To prohibit an employer from adopting a policy that prohibits  
23 the use of marijuana by employees or independent contractors during  
24 working hours or that provides for the testing of the use of marijuana  
25 by employees or independent contractors;

26 (d) To prohibit an employer from refusing to hire or engage an  
27 employee or independent contractor who uses or has used marijuana;

28 (e) To prohibit an employer from terminating an employee or in-  
29 dependent contractor who uses or has used marijuana during working  
30 hours;

31 (f) To prohibit an owner, lessor or lessee of real property, or any

1 other person who has an interest in real property, from prohibiting the  
2 manufacture, delivery, possession or use of marijuana on the real  
3 property;

4 (g) To prohibit a recipient of a federal grant or an applicant for a  
5 federal grant from prohibiting the manufacture, delivery, possession  
6 or use of marijuana to the extent necessary to satisfy federal require-  
7 ments for the grant;

8 (h) To prohibit a party to a federal contract or a person applying  
9 to be a party to a federal contract from prohibiting the manufacture,  
10 delivery, possession or use of marijuana to the extent necessary to  
11 comply with the terms and conditions of the contract or to satisfy  
12 federal requirements for the contract;

13 (i) To require a person to violate a federal law;

14 (j) To exempt a person from a federal law or obstruct the enforce-  
15 ment of a federal law;

16 (k) To amend or affect in any way the Oregon Indoor Clean Air Act;  
17 or

18 (L) To amend or affect in any way the Oregon Medical Marijuana  
19 Act.

20 (3) Consistent with subsections (1) and (2) of this section, it is the  
21 policy of this state to encourage the development of all industries.

22 **SECTION 3. Definitions.** As used in sections 1 to 47 of this 2013 Act:

23 (1) “Consumer” means a person who purchases, acquires, owns,  
24 holds or uses marijuana or marijuana-infused products other than for  
25 the purpose of resale in the regular course of business.

26 (2) “Homegrown” means produced for noncommercial purposes.

27 (3) “Marijuana” has the meaning given that term in ORS 475.005.

28 (4)(a) “Marijuana-infused products” means products that contain  
29 marijuana or marijuana extracts and that are intended for human  
30 consumption.

31 (b) “Marijuana-infused products” does not include marijuana.

1 (5) “Marijuana processor” means a person who processes marijuana  
2 or marijuana-infused products in this state.

3 (6) “Marijuana producer” means a person who produces marijuana  
4 in this state.

5 (7) “Marijuana retailer” means a person who sells marijuana or  
6 marijuana-infused products to a consumer in this state.

7 (8) “Marijuana wholesaler” means a person who purchases  
8 marijuana or marijuana-infused products in this state for resale to a  
9 person other than a consumer in this state.

10 (9) “Noncommercial” means not dependent or conditioned upon the  
11 provision or receipt of financial consideration.

12 (10) “Premises” means:

13 (a) All enclosed areas at a location used for the production, pro-  
14 cessing or retail sale of marijuana or marijuana-infused products; and

15 (b) All outside areas at a location that are used for the production,  
16 processing or retail sale of marijuana or marijuana-infused products.

17 (11) “Process” includes the processing, packaging, repackaging, la-  
18 beling or relabeling of marijuana, marijuana-infused products or any  
19 container of marijuana or marijuana-infused products.

20 (12) “Produce” includes the production, manufacture, planting,  
21 cultivation, growing or harvesting of marijuana.

22 (13)(a) “Usable marijuana” means the dried leaves and flowers of  
23 the plant Cannabis family Moraceae, and any mixture or preparation  
24 thereof.

25 (b) “Usable marijuana” does not include the seeds, stalks and roots  
26 of the plant Cannabis family Moraceae.

27 **SECTION 4. Exemptions.** Sections 1 to 47 of this 2013 Act do not  
28 apply:

29 (1) To the production, processing, keeping or storage of homegrown  
30 marijuana at a premises if the total amount of marijuana at the  
31 premises does not exceed six mature marijuana plants and 24 ounces

1 of usable marijuana at a given time;

2 (2) To the production, processing, keeping or storage of homegrown  
3 marijuana-infused products; or

4 (3) To the extent a person acts within the scope of and in compli-  
5 ance with the Oregon Medical Marijuana Act.

6 SECTION 5. Powers and duties of Oregon Health Authority. (1) The  
7 Oregon Health Authority shall:

8 (a) Regulate the production, possession, sale, purchase, transporta-  
9 tion, importation and delivery of marijuana in accordance with  
10 sections 1 to 47 of this 2013 Act.

11 (b) Grant, refuse, suspend or cancel licenses for the sale or pro-  
12 duction of marijuana or marijuana-infused products and may permit,  
13 in the authority's discretion, the transfer of a license between persons.

14 (c) Aid in the investigation and prosecution of violations of sections  
15 1 to 47 of this 2013 Act.

16 (d) Adopt rules as are necessary to administer or carry out the  
17 authority's duties under sections 1 to 47 of this 2013 Act.

18 (e) Exercise all powers incidental, convenient or necessary to ad-  
19 minister or carry out the authority's duties under sections 1 to 47 of  
20 this 2013 Act.

21 (f) Regulate the use of marijuana or marijuana-infused products for  
22 scientific, pharmaceutical, manufacturing, mechanical, industrial or  
23 other purposes.

24 (2) The authority may not purchase, own or sell marijuana or  
25 marijuana-infused products.

26 SECTION 6. Powers and duties of Oregon Liquor Control Commis-  
27 sion. (1) The Oregon Liquor Control Commission shall:

28 (a) Regulate the production, possession, sale, purchase, transporta-  
29 tion, importation and delivery of marijuana in accordance with  
30 sections 25 to 36 of this 2013 Act.

31 (b) Collect the taxes and duties imposed under sections 25 to 36 of

1 **this 2013 Act and issue evidence of payment of taxes or duties.**

2 **(c) Aid in the investigation and prosecution of violations of sections**  
3 **1 to 47 of this 2013 Act.**

4 **(d) Adopt rules as are necessary to administer or carry out the**  
5 **commission's duties under sections 1 to 47 of this 2013 Act.**

6 **(e) Exercise all powers incidental, convenient or necessary to ad-**  
7 **minister or carry out the commission's duties under sections 1 to 47**  
8 **of this 2013 Act.**

9 **(f) Regulate or prohibit advertising by marijuana producers,**  
10 **marijuana retailers or marijuana wholesalers.**

11 **(2) The commission may not purchase, own or sell marijuana or**  
12 **marijuana-infused products.**

13 **SECTION 7. Powers and duties of State Department of Agriculture.**

14 **The State Department of Agriculture shall assist and cooperate with**  
15 **the Oregon Health Authority and the Oregon Liquor Control Com-**  
16 **mission to the extent necessary for the authority and the commission**  
17 **to carry out the duties of the authority and the commission under**  
18 **sections 1 to 47 of this 2013 Act.**

19 **SECTION 8. Purchase and use of marijuana by member or em-**

20 **ployee. No provision of sections 1 to 47 of this 2013 Act prevents any**  
21 **member or employee of the Oregon Health Authority, the Oregon Li-**  
22 **quor Control Commission or the State Department of Agriculture from**  
23 **purchasing and keeping in possession, for the personal use of the**  
24 **member or employee or members of the family of the member or em-**  
25 **ployee, any marijuana in the same manner as it may be purchased or**  
26 **kept by any other person under sections 1 to 47 of this 2013 Act.**

27 **SECTION 9. Preemption of inconsistent charters and ordinances.**

28 **Sections 1 to 47 of this 2013 Act are designed to operate uniformly**  
29 **throughout the state and preempt all municipal charter enactments**  
30 **or local ordinances that are inconsistent with sections 1 to 47 of this**  
31 **2013 Act.**

1     **SECTION 10. Authority of cities and counties over marijuana**  
2 **retailers.** Cities and counties may adopt reasonable time, place and  
3 **manner ordinances** for the regulation of marijuana retailers if the  
4 **governing body of the city or county makes specific findings that ad-**  
5 **verse effects will otherwise occur.**

6     **SECTION 11. Licenses; federal law.** The Oregon Health Authority  
7 **may not refuse to issue or renew, or suspend or revoke, a license is-**  
8 **sued under sections 12 to 24 of this 2013 Act on the basis that produc-**  
9 **ing, distributing and possessing marijuana is prohibited by federal law.**

10    **SECTION 12. Oregon Health Authority's licensing duties.** (1) The  
11 **Oregon Health Authority shall issue and renew the licenses described**  
12 **in sections 14, 15, 16 and 17 of this 2013 Act in the manner provided in**  
13 **sections 12 to 24 of this 2013 Act.**

14     **(2) Refusal to issue or renew, or suspension or revocation of, a li-**  
15 **cence as provided in sections 12 to 24 of this 2013 Act is subject to the**  
16 **provisions of ORS chapter 183.**

17    **SECTION 13. Application for license; rules; fees.** (1) A person may  
18 **apply to the Oregon Health Authority for the issuance or renewal of**  
19 **a license described in section 14, 15, 16 or 17 of this 2013 Act on a form**  
20 **and in a manner prescribed by the authority by rule. An application**  
21 **submitted under this section must include the name and address of the**  
22 **applicant, location of the premises that is to be operated under the**  
23 **license and any other information the authority may require.**

24     **(2) The authority shall issue an applicant the license for which the**  
25 **applicant applied if:**

26     **(a) The applicant is in compliance with this section;**

27     **(b) The authority considers the applicant qualified under section 14,**  
28 **15, 16 or 17 of this 2013 Act;**

29     **(c) For the issuance of a license, the authority considers the appli-**  
30 **cant to be in compliance with section 20 of this 2013 Act; and**

31     **(d) For the renewal of a license, the authority considers the appli-**

1 cant to be in compliance with section 21 of this 2013 Act.

2 (3) The authority shall assess a nonrefundable fee for processing an  
3 application to issue a license under this section. The application pro-  
4 cessing fee shall be \$250 or an amount that the authority adopts by  
5 rule.

6 (4) The annual license fee for a license issued by the authority un-  
7 der this section shall be \$1,000 or an amount that the authority adopts  
8 by rule. The license fee is nonrefundable and shall be paid by each  
9 applicant upon the issuance or renewal of a license. All moneys col-  
10 lected under this subsection shall be deposited in the Oregon Health  
11 Authority Fund established in ORS 413.101 and are continuously ap-  
12 propriated to the authority for purposes of carrying out the duties of  
13 the authority under sections 1 to 47 of this 2013 Act.

14 SECTION 14. Production license; rules. (1) The Oregon Health Au-  
15 thority shall adopt rules establishing the qualifications of a marijuana  
16 producer.

17 (2) A marijuana producer must have a production license issued by  
18 the authority for the premises at which marijuana is produced.

19 SECTION 15. Processor license; rules. (1) The Oregon Health Au-  
20 thority shall adopt rules establishing the qualifications of a marijuana  
21 processor.

22 (2) A marijuana processor must have a processor license issued by  
23 the authority for the premises at which marijuana or marijuana-  
24 infused products are processed.

25 SECTION 16. Wholesale license; rules. (1) The Oregon Health Au-  
26 thority shall adopt rules establishing the qualifications of a marijuana  
27 wholesaler.

28 (2) A marijuana wholesaler must have a wholesale license issued  
29 by the authority for the premises at which marijuana or marijuana-  
30 infused products are received, kept, stored or delivered.

31 SECTION 17. Retail license; rules. (1) The Oregon Health Authority



1 shall adopt rules establishing the qualifications of a marijuana  
2 retailer.

3 (2) A marijuana retailer must have a retail license issued by the  
4 authority for the premises at which marijuana or marijuana-infused  
5 products are sold.

6 SECTION 18. Characteristics of license. (1) A license issued under  
7 section 13 of this 2013 Act:

8 (a) Shall be a personal privilege.

9 (b) Shall be valid for one year as described in section 19 of this 2013  
10 Act.

11 (c) Shall be renewable as described in section 13 of this 2013 Act.

12 (d) Shall be suspendible or revocable as described in section 21 of  
13 this 2013 Act.

14 (e) Shall be transferable from the premises for which the license  
15 was originally issued to another premises, subject to sections 1 to 47  
16 of this 2013 Act, rules adopted by the Oregon Health Authority under  
17 sections 12 to 24 of this 2013 Act and any county or city ordinance.

18 (f) Shall cease upon the death, insolvency or bankruptcy of the  
19 licensee, except as provided in subsection (2) of this section.

20 (g) Does not constitute property.

21 (h) In not alienable.

22 (i) Is not subject to attachment or execution.

23 (j) Does not descend by the laws of testate or intestate devolution.

24 (2) The authority may, by order, provide for the manner and con-  
25 ditions under which:

26 (a) Marijuana or marijuana-infused products left by a deceased, in-  
27 solvent or bankrupt licensee, or subject to a security interest, may be  
28 disposed of.

29 (b) The business of a deceased, insolvent or bankrupt licensee may  
30 be operated for a reasonable period following the death, insolvency or  
31 bankruptcy of the licensee.

1 (c) A license may be transferred from the premises for which the  
2 license was originally issued to another premises.

3 **SECTION 19. License terms.** A license issued or renewed under  
4 section 13 of this 2013 Act shall be issued for a period of one year and  
5 expires at midnight on the date of issuance.

6 **SECTION 20. Grounds for refusing to issue license.** The Oregon  
7 Health Authority may refuse to issue a license under section 13 of this  
8 2013 Act if the authority has reasonable ground to believe any of the  
9 following:

10 (1) That there are sufficient licensed premises in the location re-  
11 quested in the application or that the granting of a license in the lo-  
12 cation is not demanded by public interest or convenience. In  
13 determining whether there are sufficient licensed premises in the lo-  
14 cation, the authority shall consider seasonal fluctuations in the popu-  
15 lation of the location and ensure that there are adequate licensed  
16 premises to serve the needs of the location during peak seasons.

17 (2) That the premises named in the application does not have de-  
18 fined boundaries. The authority may require that a premises be en-  
19 closed by a wall, fence or other structure as a condition of issuing a  
20 license. The authority may not license premises that are mobile.

21 (3) That the applicant:

22 (a) Is in the habit of using alcoholic beverages, habit-forming drugs  
23 or controlled substances to excess.

24 (b) Has made false statements to the authority.

25 (c) Is incompetent or physically unable to meet the requirements  
26 of the business proposed to be licensed.

27 (d) Has been convicted of violating any of the laws, general or local,  
28 of this state if the conviction is substantially related to the fitness and  
29 ability of the applicant to perform the duties of a licensee.

30 (e) Is mentally incompetent.

31 (f) Is not of good repute and moral character.

1 (g) Does not have a good record of compliance with sections 1 to  
2 47 of this 2013 Act or rules adopted under sections 1 to 47 of this 2013  
3 Act.

4 (h) Is not the legitimate owner of the business proposed to be li-  
5 censed or has not disclosed other persons who have an ownership in-  
6 terest in the business.

7 (i) Has not demonstrated financial responsibility sufficient to ade-  
8 quately meet the requirements of the business proposed to be licensed.

9 SECTION 21. Grounds for revocation or suspension of license. The  
10 Oregon Health Authority may revoke or suspend a license issued under  
11 section 13 of this 2013 Act if the authority finds or has reasonable  
12 ground to believe any of the following to be true:

13 (1) That the licensee:

14 (a) Has violated a provision of sections 1 to 47 of this 2013 Act or a  
15 rule adopted under sections 1 to 47 of this 2013 Act.

16 (b) Has made a false representation or statement to the authority  
17 or the Oregon Liquor Control Commission in order to induce or pre-  
18 vent action by the authority or the commission.

19 (c) Is mentally incompetent.

20 (d) Is insolvent or physically unable to carry on the management  
21 of the business that is licensed.

22 (e) Is in the habit of using alcoholic beverages, habit-forming drugs  
23 or controlled substances to excess.

24 (f) Has made a false representation or statement to a consumer or  
25 the public concerning marijuana or marijuana-infused products sold  
26 by the licensee.

27 (g) Since the issuance of the license, has been convicted of a crime  
28 related to marijuana use or a county or city ordinance related to  
29 marijuana use.

30 (2) That there is any other reason that, in the opinion of the au-  
31 thority, based on public convenience or necessity, warrants revoking

1 or suspending the license.

2 **SECTION 22. No “tied house” prohibitions.** A person may hold one  
3 or more production licenses, one or more processor licenses and one  
4 or more retail licenses.

5 **SECTION 23. Delivery of marijuana.** A marijuana producer,  
6 marijuana processor or marijuana wholesaler may deliver marijuana  
7 and marijuana-infused products only to a licensed premises. A  
8 marijuana retailer is restricted to selling marijuana and marijuana-  
9 infused products on the premises described in the license, but may  
10 deliver marijuana and marijuana-infused products to consumers pur-  
11 suant to bona fide orders received by a business located on a licensed  
12 premises.

13 **SECTION 24. Examination of books and premises of licensees.** (1)  
14 The Oregon Health Authority, after providing 72 hours notice to a  
15 person licensed under sections 12 to 24 of this 2013 Act, may make an  
16 examination of the books kept at the premises for the purpose of de-  
17 termining compliance with sections 1 to 47 of this 2013 Act and rules  
18 adopted by the authority under sections 1 to 47 of this 2013 Act.

19 (2) The authority may at any time make an examination of the  
20 premises of a person licensed under sections 12 to 24 of this 2013 Act  
21 for the purpose of determining compliance with sections 1 to 47 of this  
22 2013 Act and rules adopted under sections 1 to 47 of this 2013 Act.

23 **SECTION 25. Administration by Oregon Liquor Control Commis-**  
24 **sion.** The Oregon Liquor Control Commission shall administer sections  
25 25 to 36 of this 2013 Act and prescribe forms and adopt rules as the  
26 commission considers necessary to enforce sections 25 to 36 of this 2013  
27 Act.

28 **SECTION 26. Tax on marijuana.** (1) A tax is imposed upon the  
29 privilege of engaging in business as a marijuana producer at the rate  
30 of \$35 per ounce on all marijuana produced in this state.

31 (2) The rate of tax imposed by this section applies proportionately

1 to quantities of marijuana that are less than one ounce.

2 (3) The tax imposed by this section shall be measured by the  
3 amount of marijuana produced by a marijuana producer.

4 (4) All moneys collected by the Oregon Liquor Control Commission  
5 under this section shall be deposited into the suspense account of the  
6 commission described in section 35 of this 2013 Act for purposes spec-  
7 ified in sections 35 and 36 of this 2013 Act.

8 SECTION 27. Payment of taxes; refunds; interest or penalty; appeal.

9 (1) The privilege tax imposed by section 26 of this 2013 Act shall be paid  
10 to the Oregon Liquor Control Commission. Taxes to be paid during the  
11 periods for which statements are required under section 28 of this 2013  
12 Act shall be paid before the time for filing such statements expires.  
13 If not so paid, a penalty of 10 percent and interest at the rate of one  
14 percent a month or fraction of a month shall be added and collected.  
15 The commission may refund a tax payment imposed upon or paid in  
16 error by a marijuana producer. The commission may waive the col-  
17 lection or refund the payment of a tax imposed and collected on  
18 marijuana determined by the commission to be unfit for human con-  
19 sumption or unsalable.

20 (2) The commission may waive any interest or penalty assessed  
21 under this section if the commission, in its discretion, determines that  
22 the marijuana producer has made a good faith attempt to comply with  
23 the requirements of sections 25 to 36 of this 2013 Act.

24 (3) Except in the case of fraud, the commission may not assess any  
25 interest or penalty on any tax due under section 26 of this 2013 Act  
26 following the expiration of 36 months from the date on which the  
27 statement required under section 28 of this 2013 Act was filed.

28 (4) A marijuana producer may appeal a tax imposed under section  
29 26 of this 2013 Act in the manner of a contested case under ORS  
30 chapter 183.

31 SECTION 28. Statements by marijuana producers as to quantities

1 **produced.** On or before the 20th day of each month, every marijuana  
2 producer shall file with the Oregon Liquor Control Commission a  
3 statement of the quantity of marijuana produced by the marijuana  
4 producer during the preceding calendar month.

5 **SECTION 29. Estimate by Oregon Liquor Control Commission when**  
6 **statement not filed or false statement filed.** If a marijuana producer  
7 fails, neglects or refuses to file a statement required by section 28 of  
8 this 2013 Act or files a false statement, the Oregon Liquor Control  
9 Commission shall estimate the amount of marijuana produced by the  
10 marijuana producer and assess the privilege tax imposed under section  
11 26 of this 2013 Act on the basis of the estimate. The marijuana pro-  
12 ducer may not make an appeal under section 27 of this 2013 Act if the  
13 marijuana producer fails, neglects or refuses to file a statement or  
14 files a false statement.

15 **SECTION 30. Lien created by tax.** The privilege tax imposed under  
16 section 26 of this 2013 Act constitutes a lien upon, and has the effect  
17 of an execution duly levied against, any and all property of the  
18 marijuana producer. The lien attaches at the time the marijuana  
19 subject to the tax was produced and remains until the tax is paid or  
20 the property is sold in payment for the tax. The lien created by this  
21 section is paramount to all private liens or encumbrances.

22 **SECTION 31. Records to be kept by marijuana producers.** Every  
23 marijuana producer shall keep a complete and accurate record of all  
24 sales of marijuana, and a complete and accurate record of the number  
25 of ounces produced and the date of production. The records must be  
26 in a form prescribed by the Oregon Liquor Control Commission by rule  
27 and must contain any information the commission requires by rule.

28 **SECTION 32. Inspection of marijuana producer's records; records**  
29 **to be kept for prescribed period.** (1) The Oregon Liquor Control Com-  
30 mission may, at any time, examine the records and books of a  
31 marijuana producer. The commission may appoint auditors, investi-

1 gators and other employees that the commission considers necessary  
2 to enforce its powers and perform its duties under sections 25 to 36 of  
3 this 2013 Act.

4 (2) A marijuana producer shall maintain and keep for two years all  
5 records required by section 31 of this 2013 Act and all books of ac-  
6 counts related to the production of marijuana. A marijuana producer  
7 shall provide copies of those records and books to the commission  
8 when requested by the commission.

9 SECTION 33. Failure to pay tax or maintain records. (1) A  
10 marijuana producer may not:

11 (a) Fail to pay the privilege tax imposed under section 26 of this 2013  
12 Act when it is due; or

13 (b) Falsify a statement required by section 28 of this 2013 Act.

14 (2) A person may not:

15 (a) Refuse to permit the Oregon Liquor Control Commission or a  
16 representative of the commission to make an inspection of the books  
17 and records authorized by sections 31 and 32 of this 2013 Act;

18 (b) Fail to keep books of account required by sections 25 to 36 of  
19 this 2013 Act;

20 (c) Fail to preserve the books for two years as required by section  
21 32 of this 2013 Act; or

22 (d) Alter, cancel or obliterate entries in the books of account for  
23 the purpose of falsifying a record required by sections 25 to 36 of this  
24 2013 Act.

25 SECTION 34. State has exclusive right to tax marijuana. No county  
26 or city of this state shall impose a fee or tax, including occupation  
27 taxes, privilege taxes or inspection fees, in connection with the pro-  
28 duction, sale, transporting, delivering or handling of marijuana.

29 SECTION 35. Disposition of moneys; revolving fund. (1) All moneys  
30 collected by the Oregon Liquor Control Commission under sections 25  
31 to 36 of this 2013 Act shall be remitted to the State Treasurer who shall

1 credit the moneys to a suspense account of the commission. Whenever  
2 the commission receives moneys in excess of the amount legally due  
3 and payable to the commission, the commission shall refund the ex-  
4 cess amount by check drawn upon the State Treasurer and charged  
5 to the suspense account of the commission. After withholding a sum,  
6 not to exceed \$250,000, as the commission considers necessary as a re-  
7 volving fund for refunds and a working cash balance for paying travel  
8 expenses, advances, other miscellaneous bills and extraordinary items  
9 that are payable in cash immediately upon presentation, the commis-  
10 sion shall direct the State Treasurer to transfer the moneys remaining  
11 in the suspense account to the Cannabis Tax Account established un-  
12 der section 36 of this 2013 Act for the purpose of making the distrib-  
13 utions required by section 36 of this 2013 Act.

14 (2) All necessary expenditures of the commission incurred in car-  
15 rying out sections 1 to 47 of this 2013 Act, including sums necessary  
16 to reimburse the suspense account of the commission, shall be paid  
17 from the Cannabis Tax Account.

18 SECTION 36. Cannabis Tax Account; distribution of available mon-  
19 neys. (1) There is established the Cannabis Tax Account, separate and  
20 distinct from the General Fund. The account shall consist of moneys  
21 transferred to the account under section 35 of this 2013 Act.

22 (2) At the end of each month, the Oregon Liquor Control Commis-  
23 sion shall determine the amount of moneys available for distribution  
24 in the Cannabis Tax Account and, after withholding an amount that  
25 the commission considers necessary to carry out the duties of the  
26 commission under sections 1 to 47 of this 2013 Act, distribute the  
27 moneys as follows:

28 (a) Forty percent shall be transferred to the Common School Fund;

29 (b) Twenty percent shall be transferred to the State Police Account  
30 established under ORS 181.175;

31 (c) Twenty percent shall be transferred to the Mental Health



1 Alcoholism and Drug Services Account established under ORS 430.380;  
2 and

3 (d) Twenty percent shall be transferred to the General Fund for  
4 general governmental purposes.

5 **SECTION 37. Importing marijuana prohibited.** Marijuana may not  
6 be imported into or exported from this state by any person.

7 **SECTION 38. Marijuana may not be given as prize.** Marijuana may  
8 not be given as a prize, premium or consideration for a lottery, con-  
9 test, competition or game of chance or skill of any kind.

10 **SECTION 39. Duty of officers to enforce and to inform district at-**  
11 **torney.** The state police, sheriffs, constables and police officers in this  
12 state shall enforce sections 1 to 47 of this 2013 Act and assist the  
13 Oregon Health Authority and the Oregon Liquor Control Commission  
14 in detecting violations of sections 1 to 47 of this 2013 Act and appre-  
15 hending offenders. An officer having notice, knowledge or reasonable  
16 ground of suspicion of a violation of sections 1 to 47 of this 2013 Act  
17 shall immediately notify the district attorney of the county in which  
18 the violation occurred and furnish the district attorney with the  
19 names and addresses of all witnesses and with other information  
20 within the officer's knowledge pertaining to the violation.

21 **SECTION 40. Confiscation of marijuana and property.** Whenever an  
22 officer arrests a person for violating sections 1 to 47 of this 2013 Act,  
23 the officer may take into possession any marijuana and property used  
24 to produce, process or sell marijuana in the possession of the person  
25 or on the premises where the violation occurred. If the person arrested  
26 is convicted and it is found that the marijuana or property was used  
27 in violation of the law, the marijuana and property is forfeited to the  
28 state. Forfeited marijuana shall be destroyed and forfeited property  
29 shall be destroyed or sold. Proceeds from sold property shall be de-  
30 posited in the Common School Fund.

31 **SECTION 41. Duty to notify of conviction of licensee.** A county

1 court, district attorney or municipal authority, immediately upon the  
2 conviction of a person licensed under sections 12 to 24 of this 2013 Act,  
3 shall notify the Oregon Health Authority and the Oregon Liquor Con-  
4 trol Commission of the conviction.

5 **SECTION 42. Property and places as common nuisances.** (1) A  
6 room, house, building, boat, structure or place of any kind where  
7 marijuana is sold, manufactured, bartered or given away in violation  
8 of the law, or where persons are permitted to resort for the purpose  
9 of using marijuana in violation of the law, or any place where  
10 marijuana is kept for sale, barter or gift in violation of the law, and  
11 all marijuana or property subject to confiscation under section 40 of  
12 this 2013 Act that is kept and used in such a place, is a common nui-  
13 sance.

14 (2) A person may not maintain or assist in maintaining a common  
15 nuisance under this section or knowingly suffer or permit a common  
16 nuisance under this section to exist on property owned, managed or  
17 leased by the person.

18 **SECTION 43. Lien on place used to unlawfully handle marijuana.**  
19 If the owner of a premises knowingly has allowed the premises to be  
20 used or occupied for the production, sale or possession of marijuana  
21 contrary to sections 1 to 47 of this 2013 Act, the premises is subject to  
22 a lien and may be sold to pay all fines and costs assessed against the  
23 occupants of the premises who committed the violation or violations.  
24 The lien may be enforced by civil action in any court having jurisdic-  
25 tion by the district attorney of the county where the premises is lo-  
26 cated.

27 **SECTION 44. Governor authorized to suspend license.** In case of  
28 invasion, disaster, insurrection, riot or imminent danger of invasion,  
29 disaster, insurrection or riot, the Governor may, for the duration of  
30 the invasion, disaster, insurrection, riot or imminent danger of inva-  
31 sion, disaster, insurrection or riot, immediately suspend without no-

1 **tice a license issued under sections 12 to 24 of this 2013 Act in the area**  
2 **subject to or threatened by the invasion, disaster, insurrection or riot.**

3 **SECTION 45. Penalties. (1) Violation of a provision of sections 1 to**  
4 **47 of this 2013 Act is a Class B violation.**

5 **(2) Subject to ORS 153.022, violation of a rule adopted by the Oregon**  
6 **Health Authority or the Oregon Liquor Control Commission under**  
7 **sections 1 to 47 of this 2013 Act is a Class B violation.**

8 **SECTION 46. Unlawful use of marijuana. (1) Notwithstanding**  
9 **sections 1 to 47 of this 2013 Act, it is unlawful for any person to engage**  
10 **in the use of marijuana in a public place, as defined in ORS 161.015,**  
11 **in public view, in a correctional facility as defined in ORS 162.135 or**  
12 **in a youth correction facility as defined in ORS 162.135.**

13 **(2) Violation of this section is a specific fine violation. The**  
14 **presumptive fine for a violation of this section is \$650.**

15 **SECTION 47. Severability. If a provision of sections 1 to 47 of this**  
16 **2013 Act or its application to a person or circumstance is held invalid,**  
17 **the invalidity does not affect other provisions or applications of**  
18 **sections 1 to 47 of this 2013 Act that can be given effect without the**  
19 **invalid provision or application. To this end, the provisions of sections**  
20 **1 to 47 of this 2013 Act are severable.**

21 **SECTION 48. ORS 475.005 is amended to read:**

22 **475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless**  
23 **the context requires otherwise:**

24 **(1) “Abuse” means the repetitive excessive use of a drug short of de-**  
25 **pendence, without legal or medical supervision, which may have a detri-**  
26 **mental effect on the individual or society.**

27 **(2) “Administer” means the direct application of a controlled substance,**  
28 **whether by injection, inhalation, ingestion or any other means, to the body**  
29 **of a patient or research subject by:**

30 **(a) A practitioner or an authorized agent thereof; or**

31 **(b) The patient or research subject at the direction of the practitioner.**

1 (3) "Administration" means the Drug Enforcement Administration of the  
2 United States Department of Justice, or its successor agency.

3 (4) "Agent" means an authorized person who acts on behalf of or at the  
4 direction of a manufacturer, distributor or dispenser. It does not include a  
5 common or contract carrier, public warehouseman or employee of the carrier  
6 or warehouseman.

7 (5) "Board" means the State Board of Pharmacy.

8 (6) "Controlled substance":

9 (a) Means, **except as provided in paragraphs (b) and (c) of this sub-**  
10 **section**, a drug or its immediate precursor classified in Schedules I through  
11 V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as  
12 modified under ORS 475.035. The use of the term "precursor" in this para-  
13 graph does not control and is not controlled by the use of the term "pre-  
14 cursor" in ORS 475.752 to 475.980.

15 (b) Does not mean industrial hemp, as defined in ORS 571.300, or indus-  
16 trial hemp commodities or products.

17 (c) **Does not mean marijuana.**

18 (7) "Counterfeit substance" means a controlled substance or its container  
19 or labeling, which, without authorization, bears the trademark, trade name,  
20 or other identifying mark, imprint, number or device, or any likeness thereof,  
21 of a manufacturer, distributor or dispenser other than the person who in fact  
22 manufactured, delivered or dispensed the substance.

23 (8) "Deliver" or "delivery" means the actual, constructive or attempted  
24 transfer, other than by administering or dispensing, from one person to an-  
25 other of a controlled substance, whether or not there is an agency relation-  
26 ship.

27 (9) "Device" means instruments, apparatus or contrivances, including  
28 their components, parts or accessories, intended:

29 (a) For use in the diagnosis, cure, mitigation, treatment or prevention of  
30 disease in humans or animals; or

31 (b) To affect the structure of any function of the body of humans or ani-

1 mals.

2 (10) "Dispense" means to deliver a controlled substance to an ultimate  
3 user or research subject by or pursuant to the lawful order of a practitioner,  
4 and includes the prescribing, administering, packaging, labeling or com-  
5 pounding necessary to prepare the substance for that delivery.

6 (11) "Dispenser" means a practitioner who dispenses.

7 (12) "Distributor" means a person who delivers.

8 (13) "Drug" means:

9 (a) Substances recognized as drugs in the official United States  
10 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or  
11 official National Formulary, or any supplement to any of them;

12 (b) Substances intended for use in the diagnosis, cure, mitigation, treat-  
13 ment or prevention of disease in humans or animals;

14 (c) Substances (other than food) intended to affect the structure or any  
15 function of the body of humans or animals; and

16 (d) Substances intended for use as a component of any article specified  
17 in paragraph (a), (b) or (c) of this subsection; however, the term does not  
18 include devices or their components, parts or accessories.

19 (14) "Electronically transmitted" or "electronic transmission" means a  
20 communication sent or received through technological apparatuses, including  
21 computer terminals or other equipment or mechanisms linked by telephone  
22 or microwave relays, or any similar apparatus having electrical, digital,  
23 magnetic, wireless, optical, electromagnetic or similar capabilities.

24 (15) "Manufacture" means the production, preparation, propagation, com-  
25 pounding, conversion or processing of a controlled substance, either directly  
26 or indirectly by extraction from substances of natural origin, or independ-  
27 ently by means of chemical synthesis, or by a combination of extraction and  
28 chemical synthesis, and includes any packaging or repackaging of the sub-  
29 stance or labeling or relabeling of its container, except that this term does  
30 not include the preparation or compounding of a controlled substance:

31 (a) By a practitioner as an incident to administering or dispensing of a

1 controlled substance in the course of professional practice; or

2 (b) By a practitioner, or by an authorized agent under the practitioner's  
3 supervision, for the purpose of, or as an incident to, research, teaching or  
4 chemical analysis and not for sale.

5 (16) "Marijuana":

6 (a) Except as provided in this subsection, means all parts of the plant  
7 Cannabis family Moraceae, whether growing or not; the resin extracted from  
8 any part of the plant; and every compound, manufacture, salt, derivative,  
9 mixture, or preparation of the plant or its resin.

10 (b) Does not mean the mature stalks of the plant, fiber produced from the  
11 stalks, oil or cake made from the seeds of the plant, any other compound,  
12 manufacture, salt, derivative, mixture, or preparation of the mature stalks  
13 (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized  
14 seed of the plant which is incapable of germination.

15 (c) Does not mean industrial hemp, as defined in ORS 571.300, or indus-  
16 trial hemp commodities or products.

17 (17) "Person" includes a government subdivision or agency, business trust,  
18 estate, trust or any other legal entity.

19 (18) "Practitioner" means physician, dentist, veterinarian, scientific in-  
20 vestigator, certified nurse practitioner, physician assistant or other person  
21 licensed, registered or otherwise permitted by law to dispense, conduct re-  
22 search with respect to or to administer a controlled substance in the course  
23 of professional practice or research in this state but does not include a  
24 pharmacist or a pharmacy.

25 (19) "Prescription" means a written, oral or electronically transmitted  
26 direction, given by a practitioner for the preparation and use of a drug.  
27 When the context requires, "prescription" also means the drug prepared un-  
28 der such written, oral or electronically transmitted direction. Any label af-  
29 fixed to a drug prepared under written, oral or electronically transmitted  
30 direction shall prominently display a warning that the removal thereof is  
31 prohibited by law.

1 (20) "Production" includes the manufacture, planting, cultivation, growing  
2 or harvesting of a controlled substance.

3 (21) "Research" means an activity conducted by the person registered with  
4 the federal Drug Enforcement Administration pursuant to a protocol ap-  
5 proved by the United States Food and Drug Administration.

6 (22) "Ultimate user" means a person who lawfully possesses a controlled  
7 substance for the use of the person or for the use of a member of the  
8 household of the person or for administering to an animal owned by the  
9 person or by a member of the household of the person.

10 **SECTION 49.** ORS 90.396 is amended to read:

11 90.396. (1) Except as provided in subsection (2) of this section, after at  
12 least 24 hours' written notice specifying the acts and omissions constituting  
13 the cause and specifying the date and time of the termination, the landlord  
14 may terminate the rental agreement and take possession as provided in ORS  
15 105.105 to 105.168, if:

16 (a) The tenant, someone in the tenant's control or the tenant's pet seri-  
17 ously threatens to inflict substantial personal injury, or inflicts any sub-  
18 stantial personal injury, upon a person on the premises other than the  
19 tenant;

20 (b) The tenant or someone in the tenant's control recklessly endangers a  
21 person on the premises other than the tenant by creating a serious risk of  
22 substantial personal injury;

23 (c) The tenant, someone in the tenant's control or the tenant's pet inflicts  
24 any substantial personal injury upon a neighbor living in the immediate vi-  
25 cinity of the premises;

26 (d) The tenant or someone in the tenant's control intentionally inflicts  
27 any substantial damage to the premises or the tenant's pet inflicts substan-  
28 tial damage to the premises on more than one occasion;

29 (e)(A) The tenant intentionally provided substantial false information on  
30 the application for the tenancy within the past year;

31 (B) The false information was with regard to a criminal conviction of the

1 tenant that would have been material to the landlord's acceptance of the  
2 application; and

3 (C) The landlord terminates the rental agreement within 30 days after  
4 discovering the falsity of the information; or

5 (f) The tenant, someone in the tenant's control or the tenant's pet com-  
6 mits any act that is outrageous in the extreme, on the premises or in the  
7 immediate vicinity of the premises. For purposes of this paragraph, an act  
8 is outrageous in the extreme if the act is not described in paragraphs (a) to  
9 (e) of this subsection, but is similar in degree and is one that a reasonable  
10 person in that community would consider to be so offensive as to warrant  
11 termination of the tenancy within 24 hours, considering the seriousness of  
12 the act or the risk to others. An act that is outrageous in the extreme is  
13 more extreme or serious than an act that warrants a 30-day termination un-  
14 der ORS 90.392. Acts that are "outrageous in the extreme" include, but are  
15 not limited to, the following acts by a person:

16 (A) Prostitution, patronizing a prostitute or promoting prostitution, as  
17 described in ORS 167.007, 167.008 and 167.012;

18 (B) Manufacture, delivery or possession of a controlled substance, as de-  
19 scribed in ORS 475.005, but not including[:]

20 [(i) *The medical use of marijuana in compliance with ORS 475.300 to*  
21 *475.346;*]

22 [(ii) *Possession of, or delivery for no consideration of, less than one*  
23 *avoirdupois ounce of marijuana as described in ORS 475.860 (3) or 475.864 (3);*  
24 *or]*

25 [(iii)] possession of prescription drugs;

26 (C) Intimidation, as described in ORS 166.155 and 166.165; or

27 (D) Burglary as described in ORS 164.215 and 164.225.

28 (2) If the cause for a termination notice given pursuant to subsection (1)  
29 of this section is based upon the acts of the tenant's pet, the tenant may cure  
30 the cause and avoid termination of the tenancy by removing the pet from the  
31 premises prior to the end of the notice period. The notice must describe the



1 right of the tenant to cure the cause. If the tenant returns the pet to the  
2 premises at any time after having cured the violation, the landlord, after at  
3 least 24 hours' written notice specifying the subsequent presence of the of-  
4 fending pet, may terminate the rental agreement and take possession as  
5 provided in ORS 105.105 to 105.168. The tenant does not have a right to cure  
6 this subsequent violation.

7 (3) For purposes of subsection (1) of this section, someone is in the  
8 tenant's control if that person enters or remains on the premises with the  
9 tenant's permission or consent after the tenant reasonably knows or should  
10 know of that person's act or likelihood to commit any act of the type de-  
11 scribed in subsection (1) of this section.

12 (4) An act can be proven to be outrageous in the extreme even if the act  
13 is one that does not violate a criminal statute. Notwithstanding the refer-  
14 ences to criminal statutes in subsection (1)(f) of this section, the landlord's  
15 burden of proof in an action for possession under subsection (1) of this sec-  
16 tion is the civil standard of proof by a preponderance of the evidence.

17 (5) If a good faith effort by a landlord to terminate the tenancy under  
18 subsection (1)(f) of this section and to recover possession of the rental unit  
19 under ORS 105.105 to 105.168 fails by decision of the court, the landlord may  
20 not be found in violation of any state statute or local ordinance requiring  
21 the landlord to remove that tenant upon threat of fine, abatement or forfei-  
22 ture as long as the landlord continues to make a good faith effort to termi-  
23 nate the tenancy.

24 **SECTION 50.** ORS 453.858 is amended to read:

25 453.858. As used in ORS 453.855 to 453.912:

26 [(1) "*Controlled substance*" does not include marijuana.]

27 [(2)] (1) "Illegal drug manufacturing site" means any property on which  
28 there is a reasonably clear possibility of contamination with chemicals as-  
29 sociated with the manufacturing of controlled substances **as defined in ORS**  
30 **475.005** and:

31 (a) Where activity involving the unauthorized manufacture of a controlled

1 substance listed on Schedules I and II or any precursor chemical for such  
2 substances occurs; or

3 (b) Wherein are kept, stored or located any of the devices, equipment,  
4 things or substances used for the unauthorized manufacture of a controlled  
5 substance listed on Schedules I and II.

6 [(3)] (2) "Property" means any:

7 (a) Real property, improvements on real property or portions of the im-  
8 provements;

9 (b) Boat, trailer, motor vehicle or manufactured dwelling; or

10 (c) Contents of the items listed in paragraph (a) or (b) of this subsection.

11 **SECTION 51.** ORS 475.525 is amended to read:

12 475.525. (1) It is unlawful for any person to sell or deliver, possess with  
13 intent to sell or deliver or manufacture with intent to sell or deliver drug  
14 paraphernalia, knowing that it will be used to unlawfully plant, propagate,  
15 cultivate, grow, harvest, manufacture, compound, convert, produce, process,  
16 prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,  
17 inhale or otherwise introduce into the human body a controlled substance  
18 as defined by ORS 475.005.

19 (2) For the purposes of this section, "drug paraphernalia" means all  
20 equipment, products and materials of any kind which are marketed for use  
21 or designed for use in planting, propagating, cultivating, growing, harvest-  
22 ing, manufacturing, compounding, converting, producing, processing, prepar-  
23 ing, testing, analyzing, packaging, repackaging, storing, containing,  
24 concealing, injecting, ingesting, inhaling or otherwise introducing into the  
25 human body a controlled substance in violation of ORS 475.752 to 475.980.  
26 Drug paraphernalia includes, but is not limited to:

27 (a) Kits marketed for use or designed for use in unlawfully planting,  
28 propagating, cultivating, growing or harvesting of any species of plant which  
29 is a controlled substance or from which a controlled substance can be de-  
30 rived;

31 (b) Kits marketed for use or designed for use in manufacturing, com-

1 pounding, converting, producing, processing or preparing controlled sub-  
2 stances;

3 (c) Isomerization devices marketed for use or designed for use in in-  
4 creasing the potency of any species of plant which is a controlled substance;

5 (d) Testing equipment marketed for use or designed for use in identifying  
6 or in analyzing the strength, effectiveness or purity of controlled substances;

7 (e) Scales and balances marketed for use or designed for use in weighing  
8 or measuring controlled substances;

9 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol,  
10 mannite, dextrose and lactose, marketed for use or designed for use in cut-  
11 ting controlled substances;

12 [(g) *Separation gins and sifters marketed for use or designed for use in*  
13 *removing twigs and seeds from, or in otherwise cleaning or refining*  
14 *marijuana;*]

15 [(h)] (g) Containers and other objects marketed for use or designed for  
16 use in storing or concealing controlled substances; and

17 [(i)] (h) Objects marketed for use or designed specifically for use in  
18 ingesting, inhaling or otherwise introducing [*marijuana,*] cocaine[, *hashish*  
19 *or hashish oil*] into the human body[, *such as:*].

20 [(A) *Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or*  
21 *without screens, permanent screens or hashish heads;*]

22 [(B) *Water pipes;*]

23 [(C) *Carburetion tubes and devices;*]

24 [(D) *Smoking and carburetion masks;*]

25 [(E) *Roach clips, meaning objects used to hold burning material that has*  
26 *become too small or too short to be held in the hand, such as a marijuana*  
27 *cigarette;*]

28 [(F) *Miniature cocaine spoons and cocaine vials;*]

29 [(G) *Chamber pipes;*]

30 [(H) *Carburetor pipes;*]

31 [(I) *Electric pipes;*]

1 [(J) Air-driven pipes;]

2 [(K) Chillums;]

3 [(L) Bongs;]

4 [(M) Ice pipes or chillers; and]

5 [(N) Lighting equipment specifically designed for the growing of controlled  
6 substances.]

7 (3) Drug paraphernalia does not include hypodermic syringes or needles.

8 (4) In determining whether an object is drug paraphernalia, a trier of fact  
9 should consider, in addition to all other relevant factors, the following:

10 (a) Instructions, oral or written, provided with the object concerning its  
11 use;

12 (b) Descriptive materials accompanying the object which explain or depict  
13 its use;

14 (c) National and local advertising concerning its use;

15 (d) The manner in which the object is displayed for sale;

16 (e) The existence and scope of legitimate uses for the object in the com-  
17 munity; and

18 (f) Any expert testimony which may be introduced concerning its use.

19 (5) The provisions of ORS 475.525 to 475.565 do not apply to persons reg-  
20 istered under the provisions of ORS 475.125 or to persons specified as exempt  
21 from registration under the provisions of that statute.

22 **SECTION 52.** ORS 475.856 is amended to read:

23 475.856. (1) It is unlawful for any person **under 21 years of age** to man-  
24 ufacture marijuana.

25 (2) Unlawful manufacture of marijuana is a Class A felony.

26 **SECTION 53.** ORS 475.860 is amended to read:

27 475.860. (1) It is unlawful:

28 (a) For any person **under 21 years of age** to deliver marijuana[.]; **or**

29 (b) **For any person to deliver marijuana to a person under 21 years**  
30 **of age.**

31 (2) Unlawful delivery of marijuana is a:

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

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

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

5 (a) Class A misdemeanor, if the delivery is for no consideration and con-  
6 sists of less than one avoirdupois ounce of the dried leaves, stems and flow-  
7 ers of the plant Cannabis family Moraceae; or

8 (b) Violation, if the delivery is for no consideration and consists of less  
9 than five grams of the dried leaves, stems and flowers of the plant Cannabis  
10 family Moraceae. A violation under this paragraph is a specific fine vio-  
11 lation. The presumptive fine for a violation under this paragraph is \$650.

12 (4) Notwithstanding subsections (2) and (3) of this section, unlawful de-  
13 livery of marijuana is a:

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

17 (b) Class C misdemeanor, if the delivery:

18 (A) Is for no consideration;

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

21 (C) Takes place in a public place, as defined in ORS 161.015, that is within  
22 1,000 feet of the real property comprising a public or private elementary,  
23 secondary or career school attended primarily by minors; and

24 (D) Is to a person who is 18 years of age or older **but under 21 years**  
25 **of age.**

26 **SECTION 54.** ORS 475.864 is amended to read:

27 475.864. (1) It is unlawful for any person **under 21 years of age** know-  
28 ingly or intentionally to possess marijuana.

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

30 (3) Notwithstanding subsection (2) of this section, unlawful possession of  
31 marijuana is a violation if the amount possessed is less than one avoirdupois

1 ounce of the dried leaves, stems and flowers of the plant Cannabis family  
2 Moraceae. A violation under this subsection is a specific fine violation. The  
3 presumptive fine for a violation under this subsection is \$650.

4 (4) Notwithstanding subsections (2) and (3) of this section, unlawful pos-  
5 session of marijuana is a Class C misdemeanor if the amount possessed is  
6 less than one avoirdupois ounce of the dried leaves, stems and flowers of the  
7 plant Cannabis family Moraceae and the possession takes place in a public  
8 place, as defined in ORS 161.015, that is within 1,000 feet of the real property  
9 comprising a public or private elementary, secondary or career school at-  
10 tended primarily by minors.

11 **SECTION 55.** ORS 475.900 is amended to read:

12 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or  
13 475.906 shall be classified as crime category 8 of the sentencing guidelines  
14 grid of the Oregon Criminal Justice Commission if:

15 (a) The violation constitutes delivery or manufacture of a controlled  
16 substance and involves substantial quantities of a controlled substance. For  
17 purposes of this paragraph, the following amounts constitute substantial  
18 quantities of the following controlled substances:

19 (A) Five grams or more of a mixture or substance containing a detectable  
20 amount of heroin;

21 (B) Ten grams or more of a mixture or substance containing a detectable  
22 amount of cocaine;

23 (C) Ten grams or more of a mixture or substance containing a detectable  
24 amount of methamphetamine, its salts, isomers or salts of its isomers;

25 [(D) One hundred grams or more of a mixture or substance containing a  
26 detectable amount of hashish;]

27 [(E) One hundred and fifty grams or more of a mixture or substance con-  
28 taining a detectable amount of marijuana;]

29 [(F)] (D) Two hundred or more user units of a mixture or substance con-  
30 taining a detectable amount of lysergic acid diethylamide;

31 [(G)] (E) Sixty grams or more of a mixture or substance containing a

1 detectable amount of psilocybin or psilocin; or

2 [(H)] (F) Five grams or more or 25 or more pills, tablets or capsules of  
3 a mixture or substance containing a detectable amount of:

4 (i) 3,4-methylenedioxyamphetamine;

5 (ii) 3,4-methylenedioxymethamphetamine; or

6 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

7 (b) The violation constitutes possession, delivery or manufacture of a  
8 controlled substance and the possession, delivery or manufacture is a com-  
9 mercial drug offense. A possession, delivery or manufacture is a commercial  
10 drug offense for purposes of this subsection if it is accompanied by at least  
11 three of the following factors:

12 (A) The delivery was of heroin, cocaine, hashish, marijuana, metham-  
13 phetamine, lysergic acid diethylamide, psilocybin or psilocin and was for  
14 consideration;

15 (B) The offender was in possession of \$300 or more in cash;

16 (C) The offender was unlawfully in possession of a firearm or other  
17 weapon as described in ORS 166.270 (2), or the offender used, attempted to  
18 use or threatened to use a deadly or dangerous weapon as defined in ORS  
19 161.015, or the offender was in possession of a firearm or other deadly or  
20 dangerous weapon as defined in ORS 161.015 for the purpose of using it in  
21 connection with a controlled substance offense;

22 (D) The offender was in possession of materials being used for the pack-  
23 aging of controlled substances such as scales, wrapping or foil, other than  
24 the material being used to contain the substance that is the subject of the  
25 offense;

26 (E) The offender was in possession of drug transaction records or cus-  
27 tomer lists;

28 (F) The offender was in possession of stolen property;

29 (G) Modification of structures by painting, wiring, plumbing or lighting  
30 to facilitate a controlled substance offense;

31 (H) The offender was in possession of manufacturing paraphernalia, in-

1 cluding recipes, precursor chemicals, laboratory equipment, lighting, venti-  
2 lating or power generating equipment;

3 (I) The offender was using public lands for the manufacture of controlled  
4 substances;

5 (J) The offender had constructed fortifications or had taken security  
6 measures with the potential of injuring persons; or

7 (K) The offender was in possession of controlled substances in an amount  
8 greater than:

9 (i) Three grams or more of a mixture or substance containing a detectable  
10 amount of heroin;

11 (ii) Eight grams or more of a mixture or substance containing a detectable  
12 amount of cocaine;

13 (iii) Eight grams or more of a mixture or substance containing a detect-  
14 able amount of methamphetamine;

15 [(iv) *Eight grams or more of a mixture or substance containing a detectable*  
16 *amount of hashish;*]

17 [(v) *One hundred ten grams or more of a mixture or substance containing*  
18 *a detectable amount of marijuana;*]

19 [(vi)] (iv) Twenty or more user units of a mixture or substance containing  
20 a detectable amount of lysergic acid diethylamide;

21 [(vii)] (v) Ten grams or more of a mixture or substance containing a de-  
22 tectable amount of psilocybin or psilocin; or

23 [(viii)] (vi) Four grams or more or 20 or more pills, tablets or capsules  
24 of a mixture or substance containing a detectable amount of:

25 (I) 3,4-methylenedioxyamphetamine;

26 (II) 3,4-methylenedioxymethamphetamine; or

27 (III) 3,4-methylenedioxy-N-ethylamphetamine.

28 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.858,  
29 475.862, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

30 (d) The violation constitutes manufacturing methamphetamine and the  
31 manufacturing consists of:



1 (A) A chemical reaction involving one or more precursor substances for  
2 the purpose of manufacturing methamphetamine; or

3 (B) Grinding, soaking or otherwise breaking down a precursor substance  
4 for the purpose of manufacturing methamphetamine.

5 (e) The violation constitutes a violation of ORS 475.860 (4)(a) or 475.906  
6 (1) or (2).

7 (2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as  
8 crime category 6 of the sentencing guidelines grid of the Oregon Criminal  
9 Justice Commission if:

10 (a) The violation constitutes delivery of heroin, cocaine, methamphet-  
11 amine or 3,4-methylenedioxyamphetamine,  
12 3,4-methylenedioxymethamphetamine or  
13 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

14 (b) The violation constitutes possession of:

15 (A) Five grams or more of a mixture or substance containing a detectable  
16 amount of heroin;

17 (B) Ten grams or more of a mixture or substance containing a detectable  
18 amount of cocaine;

19 (C) Ten grams or more of a mixture or substance containing a detectable  
20 amount of methamphetamine;

21 *[(D) One hundred grams or more of a mixture or substance containing a*  
22 *detectable amount of hashish;]*

23 *[(E) One hundred fifty grams or more of a mixture or substance containing*  
24 *a detectable amount of marijuana;]*

25 *[(F)] (D)* Two hundred or more user units of a mixture or substance con-  
26 taining a detectable amount of lysergic acid diethylamide;

27 *[(G)] (E)* Sixty grams or more of a mixture or substance containing a  
28 detectable amount of psilocybin or psilocin; or

29 *[(H)] (F)* Five grams or more or 25 or more pills, tablets or capsules of  
30 a mixture or substance containing a detectable amount of:

31 (i) 3,4-methylenedioxyamphetamine;

1 (ii) 3,4-methylenedioxymethamphetamine; or

2 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

3 (3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained  
4 in subsection (1) or (2) of this section shall be classified as:

5 (a) Crime category 4 of the sentencing guidelines grid of the Oregon  
6 Criminal Justice Commission if the violation involves delivery or manufac-  
7 ture of a controlled substance; or

8 (b) Crime category 1 of the sentencing guidelines grid of the Oregon  
9 Criminal Justice Commission if the violation involves possession of a con-  
10 trolled substance.

11 (4) In order to prove a commercial drug offense, the state shall plead in  
12 the accusatory instrument sufficient factors of a commercial drug offense  
13 under subsections (1) and (2) of this section. The state has the burden of  
14 proving each factor beyond a reasonable doubt.

15 (5) As used in this section, "mixture or substance" means any mixture or  
16 substance, whether or not the mixture or substance is in an ingestible or  
17 marketable form at the time of the offense.

18 **SECTION 56.** ORS 475.908 is amended to read:

19 475.908. (1) A person commits the crime of causing another person to  
20 ingest a controlled substance if the person knowingly or intentionally causes  
21 the other person to ingest, other than by administering or dispensing, a  
22 controlled substance or a controlled substance analog without consent of the  
23 other person. A person who violates this subsection is guilty of a Class B  
24 felony.

25 (2) Notwithstanding subsection (1) of this section, causing another person  
26 to ingest a controlled substance is a Class A felony if the person, with the  
27 intent of committing or facilitating a crime of violence against the other  
28 person, knowingly or intentionally causes the other person to ingest a con-  
29 trolled substance or a controlled substance analog without consent of the  
30 other person.

31 (3) For the purposes of this section:

1 (a)(A) Except as provided in subparagraph (B) of this paragraph, “con-  
2 trolled substance analog” means a substance that:

3 (i) Has a chemical structure that is substantially similar to the chemical  
4 structure of a controlled substance in Schedule I or II.

5 (ii) Has a stimulant, depressant or hallucinogenic effect on the central  
6 nervous system that is substantially similar to or greater than the stimulant,  
7 depressant or hallucinogenic effect on the central nervous system of a con-  
8 trolled substance in Schedule I or II.

9 (B) “Controlled substance analog” does not include:

10 (i) A controlled substance;

11 (ii) Any substance that has an approved drug application;

12 (iii) Any substance exempted under 21 U.S.C. 355 if the ingestion is within  
13 the scope of investigation authorized under 21 U.S.C. 355; or

14 (iv) Distilled spirits, wine or malt beverages.

15 (b) “Crime of violence” means:

16 (A) Rape in the first degree, as defined in ORS 163.375;

17 (B) Sodomy in the first degree, as defined in ORS 163.405;

18 (C) Unlawful sexual penetration in the first degree, as defined in ORS  
19 163.411;

20 (D) Sexual abuse in the first degree, as defined in ORS 163.427;

21 (E) Kidnapping in the first degree, as defined in ORS 163.235;

22 (F) Kidnapping in the second degree, as defined in ORS 163.225;

23 (G) Assault in the first degree, as defined in ORS 163.185; or

24 (H) Assault in the second degree, as defined in ORS 163.175.

25 (c) “Ingest” means to consume or otherwise deliver a controlled substance  
26 into the body of a person[, *except that “ingest” does not include inhalation*  
27 *of marijuana smoke*].

28 **SECTION 57.** ORS 475.910 is amended to read:

29 475.910. [(1)] Except as authorized by ORS 475.005 to 475.285 or 475.752 to  
30 475.980, it is unlawful for any person to intentionally apply a controlled  
31 substance to the body of another person by injection, inhalation, ingestion

1 or any other means if the other person is under 18 years of age. A person  
2 who violates this section with respect to:

3 [(a)] (1) A controlled substance in Schedule I or II, is guilty of a Class  
4 A felony classified as crime category 9 of the sentencing guidelines grid of  
5 the Oregon Criminal Justice Commission.

6 [(b)] (2) A controlled substance in Schedule III, is guilty of a Class B  
7 felony classified as crime category 8 of the sentencing guidelines grid of the  
8 Oregon Criminal Justice Commission.

9 [(c)] (3) A controlled substance in Schedule IV, is guilty of a Class C  
10 felony.

11 [(d)] (4) A controlled substance in Schedule V, is guilty of a Class A  
12 misdemeanor.

13 [(2) *It is a defense to a charge of violating subsection (1) of this section by*  
14 *applying marijuana that the person applying the marijuana was less than*  
15 *three years older than the victim at the time of the alleged offense.*]

16 **SECTION 58.** ORS 475.933 is amended to read:

17 475.933. (1) When a court sentences a person convicted of a crime listed  
18 in subsection (2) of this section, the court may not impose a sentence of op-  
19 tional probation or grant a downward dispositional departure or a downward  
20 durational departure under the rules of the Oregon Criminal Justice Com-  
21 mission if the person has a previous conviction for any of the crimes listed  
22 in subsection (2) of this section.

23 (2) The crimes to which subsection (1) of this section applies are:

24 (a) Manufacture or delivery of a controlled substance[, *other than*  
25 *marijuana,*] under ORS 475.752 (1);

26 (b) Creation or delivery of a counterfeit substance[, *other than*  
27 *marijuana,*] under ORS 475.752 (2);

28 (c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850  
29 or 475.852;

30 (d) Manufacture or delivery of 3,4-methylenedioxymethamphetamine under  
31 ORS 475.866, 475.868, 475.870 or 475.872;

1 (e) Manufacture or delivery of cocaine under ORS 475.876, 475.878, 475.880  
2 or 475.882;

3 (f) Manufacture or delivery of methamphetamine under ORS 475.886,  
4 475.888, 475.890 or 475.892;

5 (g) Manufacture or delivery of a controlled substance within 1,000 feet  
6 of a school under ORS 475.904;

7 (h) Delivery of a controlled substance to a person under 18 years of age  
8 under ORS 475.906; and

9 (i) Possession of a precursor substance with intent to manufacture a  
10 controlled substance under ORS 475.967.

11 (3)(a) For a crime committed on or after November 1, 1989, a conviction  
12 is considered to have occurred upon the pronouncement in open court of  
13 sentence. However, when sentences are imposed for two or more convictions  
14 arising out of the same conduct or criminal episode, none of the convictions  
15 is considered to have occurred prior to any of the other convictions arising  
16 out of the same conduct or criminal episode.

17 (b) For a crime committed prior to November 1, 1989, a conviction is  
18 considered to have occurred upon the pronouncement in open court of a  
19 sentence or upon the pronouncement in open court of the suspended imposi-  
20 tion of a sentence.

21 (4) For purposes of this section, previous convictions must be proven  
22 pursuant to ORS 137.079.

23 (5) As used in this section, “previous conviction” means:

24 (a) Convictions occurring before, on or after July 1, 2009; and

25 (b) Convictions entered in any other state or federal court for comparable  
26 offenses.

27 **SECTION 59.** ORS 571.315 is amended to read:

28 571.315. (1) In addition to any other liability or penalty provided by law,  
29 the State Department of Agriculture may revoke or refuse to issue or renew  
30 an industrial hemp license or an agricultural hemp seed production permit  
31 and may impose a civil penalty for violation of:

- 1 (a) A license or permit requirement;
- 2 (b) License or permit terms or conditions;
- 3 (c) Department rules relating to growing or handling industrial hemp; or
- 4 (d) A final order of the department that is specifically directed to the
- 5 grower's or handler's industrial hemp operations or activities.

6 (2) The department may not impose a civil penalty under this section that  
7 exceeds \$2,500. The department shall impose civil penalties under this section  
8 in the manner provided by ORS 183.745.

9 (3) The department may revoke or refuse to issue or renew an industrial  
10 hemp license or an agricultural hemp seed production permit for violation  
11 of any rule of the department that pertains to agricultural operations or  
12 activities other than industrial hemp growing or handling.

13 (4) A revocation of, or a refusal to issue or renew, an industrial hemp  
14 license or an agricultural hemp seed production permit is subject to ORS  
15 chapter 183.

16 **(5) The department may not revoke or refuse to issue or renew an**  
17 **industrial hemp license or an agricultural hemp seed production per-**  
18 **mit on the basis that hemp production or possession, or commerce in**  
19 **industrial hemp commodities or products, is prohibited by federal law.**

20 **SECTION 60. ORS 475.059 is repealed.**

21 **SECTION 61. The amendments to ORS 90.396, 453.858, 475.005,**  
22 **475.525, 475.856, 475.860, 475.864, 475.900, 475.908, 475.910 and 475.933 by**  
23 **sections 48 to 58 of this 2013 Act and the repeal of ORS 475.059 by sec-**  
24 **tion 60 of this 2013 Act apply to conduct occurring on and after the**  
25 **operative date specified in section 62 of this 2013 Act.**

26 **SECTION 62. (1) Sections 1 to 47 of this 2013 Act, the amendments**  
27 **to ORS 90.396, 453.858, 475.005, 475.525, 475.856, 475.860, 475.864, 475.900,**  
28 **475.908, 475.910, 475.933 and 571.315 by sections 48 to 59 of this 2013 Act**  
29 **and the repeal of ORS 475.059 by section 60 of this 2013 Act become**  
30 **operative on July 1, 2014.**

31 **(2) The Oregon Health Authority and the Oregon Liquor Control**

1 **Commission may take any action before the operative date specified**  
2 **in subsection (1) of this section that is necessary to enable the au-**  
3 **thority and the commission to exercise, on and after the operative**  
4 **date specified in subsection (1) of this section, all the duties, functions**  
5 **and powers conferred on the authority and the commission by sections**  
6 **1 to 47 of this 2013 Act, the amendments to ORS 90.396, 453.858, 475.005,**  
7 **475.525, 475.856, 475.860, 475.864, 475.900, 475.908, 475.910, 475.933 and**  
8 **571.315 by sections 48 to 59 of this 2013 Act and the repeal of ORS**  
9 **475.059 by section 60 of this 2013 Act.**

10 **SECTION 63. The section captions used in this 2013 Act are provided**  
11 **only for the convenience of the reader and do not become part of the**  
12 **statutory law of this state or express any legislative intent in the**  
13 **enactment of this 2013 Act.**

14 **SECTION 64. This 2013 Act being necessary for the immediate**  
15 **preservation of the public peace, health and safety, an emergency is**  
16 **declared to exist, and this 2013 Act takes effect on its passage.**

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