

A-Engrossed
House Bill 2204

Ordered by the House April 25
Including House Amendments dated April 25

Sponsored by Representative GILLIAM, Senator JOHNSON (at the request of John S. Foote, Clackamas County District Attorney) (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Increases penalty for unlawful manufacture of hydrocodone. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both.

Increases penalty for unlawful manufacture of hydrocodone within 1,000 feet of school. Punishes by maximum of 20 years' imprisonment, \$500,000 fine, or both.

Increases penalty for unlawful delivery of hydrocodone. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both. Increases penalty for unlawful delivery of hydrocodone to person under 18 years of age. Punishes by maximum of 20 years' imprisonment, \$500,000 fine, or both.

Increases penalty for unlawful delivery of hydrocodone within 1,000 feet of school. Punishes by maximum of 20 years' imprisonment, \$500,000 fine, or both.

Increases penalty for unlawful possession of hydrocodone. Punishes by maximum of 5 years' imprisonment, \$125,000 fine, or both.

Specifies sentencing guidelines for unlawful manufacture, delivery or possession of varying amounts of hydrocodone.

Specifies sentencing guidelines for unlawful manufacture, delivery or possession of varying amounts of methadone.

Specifies sentencing guidelines for unlawful manufacture, delivery or possession of varying amounts of oxycodone.

Requires crimes related to oxycodone, hydrocodone or methadone [*that involve substantial quantity or*] that constitute commercial drug offense to be classified as crime category 8 of sentencing guideline grid.

Specifies sentencing guidelines for unlawful manufacture, delivery or possession of varying amounts of marijuana.

Specifies sentencing guidelines for unlawful delivery or manufacture of oxycodone or heroin if person who uses heroin or oxycodone dies or sustains serious physical injury as result of that use.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to controlled substances; creating new provisions; amending ORS 475.806, 475.808, 475.810,
3 475.812, 475.814, 475.816, 475.820, 475.824, 475.826, 475.830, 475.834, 475.900, 475.924 and 475.925;
4 and declaring an emergency.

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

6 **SECTION 1.** ORS 475.806 is amended to read:

7 475.806. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
8 for any person to manufacture hydrocodone.

9 (2) Unlawful manufacture of hydrocodone is a Class [C] B felony.

10 **(3) The Oregon Criminal Justice Commission shall classify the unlawful manufacture of**
11 **hydrocodone on the sentencing guidelines grid of the commission as follows:**

12 **(a) For five or more grams or 500 or more pills, tablets or capsules of a mixture or sub-**
13 **stance containing a detectable amount of hydrocodone, as a crime category 10;**

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 **(b) For one or more but less than five grams or 100 or more but less than 500 pills, tab-**
2 **lets or capsules of a mixture or substance containing a detectable amount of hydrocodone,**
3 **as a crime category 9;**

4 **(c) For 500 or more milligrams but less than one gram or 50 or more but less than 100**
5 **pills, tablets or capsules of a mixture or substance containing a detectable amount of**
6 **hydrocodone, as a crime category 8;**

7 **(d) For 100 or more but less than 500 milligrams or 10 or more but less than 50 pills,**
8 **tablets or capsules of a mixture or substance containing a detectable amount of hydrocodone,**
9 **as a crime category 6; and**

10 **(e) For less than 100 milligrams or less than 10 pills, tablets or capsules of a mixture or**
11 **substance containing a detectable amount of hydrocodone, as a crime category 4.**

12 **SECTION 2.** ORS 475.808 is amended to read:

13 475.808. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
14 for any person to manufacture hydrocodone within 1,000 feet of the real property comprising a
15 public or private elementary, secondary or career school attended primarily by minors.

16 (2) Unlawful manufacture of hydrocodone within 1,000 feet of a school is a Class [B] A felony.

17 **SECTION 3.** ORS 475.810 is amended to read:

18 475.810. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
19 for any person to deliver hydrocodone.

20 (2) Unlawful delivery of hydrocodone is a Class [C] B felony.

21 (3) Notwithstanding subsection (2) of this section, unlawful delivery of hydrocodone is a Class
22 [B] A felony if the delivery is to a person under 18 years of age.

23 **(4) The Oregon Criminal Justice Commission shall classify the unlawful delivery of**
24 **hydrocodone on the sentencing guidelines grid of the commission as follows:**

25 **(a) For five or more grams or 500 or more pills, tablets or capsules of a mixture or sub-**
26 **stance containing a detectable amount of hydrocodone, as a crime category 10;**

27 **(b) For one or more but less than five grams or 100 or more but less than 500 pills, tab-**
28 **lets or capsules of a mixture or substance containing a detectable amount of hydrocodone,**
29 **as a crime category 9;**

30 **(c) For 500 or more milligrams but less than one gram or 50 or more but less than 100**
31 **pills, tablets or capsules of a mixture or substance containing a detectable amount of**
32 **hydrocodone, as a crime category 8;**

33 **(d) For 100 or more but less than 500 milligrams or 10 or more but less than 50 pills,**
34 **tablets or capsules of a mixture or substance containing a detectable amount of hydrocodone,**
35 **as a crime category 6; and**

36 **(e) For less than 100 milligrams or less than 10 pills, tablets or capsules of a mixture or**
37 **substance containing a detectable amount of hydrocodone, as a crime category 4.**

38 **SECTION 4.** ORS 475.812 is amended to read:

39 475.812. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
40 for any person to deliver hydrocodone within 1,000 feet of the real property comprising a public or
41 private elementary, secondary or career school attended primarily by minors.

42 (2) Unlawful delivery of hydrocodone within 1,000 feet of a school is a Class [B] A felony.

43 **SECTION 5.** ORS 475.814 is amended to read:

44 475.814. (1) It is unlawful for any person knowingly or intentionally to possess hydrocodone un-
45 less the hydrocodone was obtained directly from, or pursuant to[,] a valid prescription or order of,

1 a practitioner while acting in the course of professional practice, or except as otherwise authorized
2 by ORS 475.005 to 475.285 and 475.752 to 475.980.

3 (2) Unlawful possession of hydrocodone is a Class [A *misdemeanor*] C felony.

4 (3) **The Oregon Criminal Justice Commission shall classify the unlawful possession of**
5 **hydrocodone on the sentencing guidelines grid of the commission as follows:**

6 (a) **For 500 or more milligrams or 50 or more pills, tablets or capsules of a mixture or**
7 **substance containing a detectable amount of hydrocodone, as a crime category 8;**

8 (b) **For 100 or more but less than 500 milligrams or 10 or more but less than 50 pills,**
9 **tablets or capsules of a mixture or substance containing a detectable amount of hydrocodone,**
10 **as a crime category 6; and**

11 (c) **For less than 100 milligrams or less than 10 pills, tablets or capsules of a mixture or**
12 **substance containing a detectable amount of hydrocodone, as a crime category 4.**

13 **SECTION 6.** ORS 475.816 is amended to read:

14 475.816. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
15 for any person to manufacture methadone.

16 (2) Unlawful manufacture of methadone is a Class B felony.

17 (3) **The Oregon Criminal Justice Commission shall classify the unlawful manufacture of**
18 **methadone on the sentencing guidelines grid of the commission as follows:**

19 (a) **For five or more grams or 500 or more pills, tablets or capsules of a mixture or sub-**
20 **stance containing a detectable amount of methadone, as a crime category 10;**

21 (b) **For one or more but less than five grams or 100 or more but less than 500 pills, tab-**
22 **lets or capsules of a mixture or substance containing a detectable amount of methadone, as**
23 **a crime category 9;**

24 (c) **For 500 or more milligrams but less than one gram or 50 or more but less than 100**
25 **pills, tablets or capsules of a mixture or substance containing a detectable amount of**
26 **methadone, as a crime category 8;**

27 (d) **For 100 or more but less than 500 milligrams or 10 or more but less than 50 pills,**
28 **tablets or capsules of a mixture or substance containing a detectable amount of methadone,**
29 **as a crime category 6; and**

30 (e) **For less than 100 milligrams or less than 10 pills, tablets or capsules of a mixture or**
31 **substance containing a detectable amount of methadone, as a crime category 4.**

32 **SECTION 7.** ORS 475.820 is amended to read:

33 475.820. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
34 for any person to deliver methadone.

35 (2) Unlawful delivery of methadone is a Class B felony.

36 (3) Notwithstanding subsection (2) of this section, unlawful delivery of methadone is a Class A
37 felony if the delivery is to a person under 18 years of age.

38 (4) **The Oregon Criminal Justice Commission shall classify the unlawful delivery of**
39 **methadone on the sentencing guidelines grid of the commission as follows:**

40 (a) **For five or more grams or 500 or more pills, tablets or capsules of a mixture or sub-**
41 **stance containing a detectable amount of methadone, as a crime category 10;**

42 (b) **For one or more but less than five grams or 100 or more but less than 500 pills, tab-**
43 **lets or capsules of a mixture or substance containing a detectable amount of methadone, as**
44 **a crime category 9;**

45 (c) **For 500 or more milligrams but less than one gram or 50 or more but less than 100**

1 pills, tablets or capsules of a mixture or substance containing a detectable amount of
2 methadone, as a crime category 8;

3 (d) For 100 or more but less than 500 milligrams or 10 or more but less than 50 pills,
4 tablets or capsules of a mixture or substance containing a detectable amount of methadone,
5 as a crime category 6; and

6 (e) For less than 100 milligrams or less than 10 pills, tablets or capsules of a mixture or
7 substance containing a detectable amount of methadone, as a crime category 4.

8 **SECTION 8.** ORS 475.824 is amended to read:

9 475.824. (1) It is unlawful for any person knowingly or intentionally to possess methadone unless
10 the methadone was obtained directly from, or pursuant to[,] a valid prescription or order of, a
11 practitioner while acting in the course of professional practice, or except as otherwise authorized
12 by ORS 475.005 to 475.285 and 475.752 to 475.980.

13 (2) Unlawful possession of methadone is a Class C felony.

14 (3) **The Oregon Criminal Justice Commission shall classify the unlawful possession of**
15 **methadone on the sentencing guidelines grid of the commission as follows:**

16 (a) For 500 or more milligrams or 50 or more pills, tablets or capsules of a mixture or
17 substance containing a detectable amount of methadone, as a crime category 8;

18 (b) For 100 or more but less than 500 milligrams or 10 or more but less than 50 pills,
19 tablets or capsules of a mixture or substance containing a detectable amount of methadone,
20 as a crime category 6; and

21 (c) For less than 100 milligrams or less than 10 pills, tablets or capsules of a mixture or
22 substance containing a detectable amount of methadone, as a crime category 4.

23 **SECTION 9.** ORS 475.826 is amended to read:

24 475.826. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
25 for any person to manufacture oxycodone.

26 (2) Unlawful manufacture of oxycodone is a Class B felony.

27 (3) **The Oregon Criminal Justice Commission shall classify the unlawful manufacture of**
28 **oxycodone on the sentencing guidelines grid of the commission as follows:**

29 (a) For five or more grams or 500 or more pills, tablets or capsules of a mixture or sub-
30 stance containing a detectable amount of oxycodone, as a crime category 10;

31 (b) For one or more but less than five grams or 100 or more but less than 500 pills, tab-
32 lets or capsules of a mixture or substance containing a detectable amount of oxycodone, as
33 a crime category 9;

34 (c) For 500 or more milligrams but less than one gram or 50 or more but less than 100
35 pills, tablets or capsules of a mixture or substance containing a detectable amount of
36 oxycodone, as a crime category 8;

37 (d) For 100 or more but less than 500 milligrams or 10 or more but less than 50 pills,
38 tablets or capsules of a mixture or substance containing a detectable amount of oxycodone,
39 as a crime category 6; and

40 (e) For less than 100 milligrams or less than 10 pills, tablets or capsules of a mixture or
41 substance containing a detectable amount of oxycodone, as a crime category 4.

42 **SECTION 10.** ORS 475.830 is amended to read:

43 475.830. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
44 for any person to deliver oxycodone.

45 (2) Unlawful delivery of oxycodone is a Class B felony.

1 (3) Notwithstanding subsection (2) of this section, unlawful delivery of oxycodone is a Class A
2 felony if the delivery is to a person under 18 years of age.

3 (4) **The Oregon Criminal Justice Commission shall classify the unlawful delivery of**
4 **oxycodone on the sentencing guidelines grid of the commission as follows:**

5 (a) **For five or more grams or 500 or more pills, tablets or capsules of a mixture or sub-**
6 **stance containing a detectable amount of oxycodone, as a crime category 10;**

7 (b) **For one or more but less than five grams or 100 or more but less than 500 pills, tab-**
8 **lets or capsules of a mixture or substance containing a detectable amount of oxycodone, as**
9 **a crime category 9;**

10 (c) **For 500 or more milligrams but less than one gram or 50 or more but less than 100**
11 **pills, tablets or capsules of a mixture or substance containing a detectable amount of**
12 **oxycodone, as a crime category 8;**

13 (d) **For 100 or more but less than 500 milligrams or 10 or more but less than 50 pills,**
14 **tablets or capsules of a mixture or substance containing a detectable amount of oxycodone,**
15 **as a crime category 6; and**

16 (e) **For less than 100 milligrams or less than 10 pills, tablets or capsules of a mixture or**
17 **substance containing a detectable amount of oxycodone, as a crime category 4.**

18 **SECTION 11.** ORS 475.834 is amended to read:

19 475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless
20 the oxycodone was obtained directly from, or pursuant to[,] a valid prescription or order of, a
21 practitioner while acting in the course of professional practice, or except as otherwise authorized
22 by ORS 475.005 to 475.285 and 475.752 to 475.980.

23 (2) Unlawful possession of oxycodone is a Class C felony.

24 (3) **The Oregon Criminal Justice Commission shall classify the unlawful possession of**
25 **oxycodone on the sentencing guidelines grid of the commission as follows:**

26 (a) **For 500 or more milligrams or 50 or more pills, tablets or capsules of a mixture or**
27 **substance containing a detectable amount of oxycodone, as a crime category 8;**

28 (b) **For 100 or more but less than 500 milligrams or 10 or more but less than 50 pills,**
29 **tablets or capsules of a mixture or substance containing a detectable amount of oxycodone,**
30 **as a crime category 6; and**

31 (c) **For under 100 milligrams or less than 10 pills, tablets or capsules of a mixture or**
32 **substance containing a detectable amount of oxycodone, as a crime category 4.**

33 **SECTION 12.** ORS 475.900 is amended to read:

34 475.900. (1) **Except as provided in subsections (3), (4) and (5) of this section,** a violation of
35 ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified as crime category 8 of the
36 sentencing guidelines grid of the Oregon Criminal Justice Commission if:

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

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

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

42 (C) Ten grams or more of a mixture or substance containing a detectable amount of metham-
43 phetamine, its salts, isomers or salts of its isomers;

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

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

3 *[(F)] (D) Two hundred or more user units of a mixture or substance containing a detectable*
4 *amount of lysergic acid diethylamide;*

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

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

9 (i) 3,4-methylenedioxyamphetamine;

10 (ii) 3,4-methylenedioxymethamphetamine; or

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

12 (b) The violation constitutes possession, delivery or manufacture of a controlled substance and
13 the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or
14 manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at
15 least three of the following factors:

16 (A) The delivery was of heroin, cocaine, hashish, marijuana, methamphetamine, lysergic acid
17 diethylamide, psilocybin [*or*], psilocin, **oxycodone, hydrocodone or methadone** and was for con-
18 sideration;

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

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

25 (D) The offender was in possession of materials being used for the packaging of controlled sub-
26 stances such as scales, wrapping or foil, other than the material being used to contain the substance
27 that is the subject of the offense;

28 (E) The offender was in possession of drug transaction records or customer lists;

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

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

32 (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor
33 chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

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

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

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

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

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

40 (iii) Eight grams or more of a mixture or substance containing a detectable amount of metham-
41 phetamine;

42 (iv) Eight grams or more of a mixture or substance containing a detectable amount of hashish;

43 (v) One hundred ten grams or more of a mixture or substance containing a detectable amount
44 of marijuana;

45 (vi) Twenty or more user units of a mixture or substance containing a detectable amount of

1 lysergic acid diethylamide;

2 (vii) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin
3 or psilocin; [or]

4 (viii) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance
5 containing a detectable amount of:

6 (I) 3,4-methylenedioxyamphetamine;

7 (II) 3,4-methylenedioxymethamphetamine; or

8 (III) 3,4-methylenedioxy-N-ethylamphetamine[.]; or

9 **(ix) One gram or more or 100 or more pills, tablets or capsules of a mixture or substance**
10 **containing a detectable amount of oxycodone, hydrocodone or methadone.**

11 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.858, 475.862, 475.868,
12 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

13 (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists
14 of:

15 (A) A chemical reaction involving one or more precursor substances for the purpose of manu-
16 facturing methamphetamine; or

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

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

20 (2) **Except as provided in subsections (3), (4) and (5) of this section,** a violation of ORS
21 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of the sentencing guidelines grid
22 of the Oregon Criminal Justice Commission if:

23 (a) The violation constitutes delivery of heroin, cocaine, methamphetamine or
24 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or
25 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

26 (b) The violation constitutes possession of:

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

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

29 (C) Ten grams or more of a mixture or substance containing a detectable amount of metham-
30 phetamine;

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

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

35 [(F)] (D) Two hundred or more user units of a mixture or substance containing a detectable
36 amount of lysergic acid diethylamide;

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

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

41 (i) 3,4-methylenedioxyamphetamine;

42 (ii) 3,4-methylenedioxymethamphetamine; or

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

44 **(3) Any felony violation of ORS 475.856 or 475.860 shall be classified as:**

45 **(a) Crime category 10 of the sentencing guidelines grid if the violation involves:**

- 1 (A) More than 50,000 grams of a substance or mixture containing a detectable amount
2 of marijuana; or
- 3 (B) More than 500 mature marijuana plants, seedlings or starts;
- 4 (b) Crime category 9 of the sentencing guidelines grid if the violation involves:
- 5 (A) More than 20,000 grams, and not more than 50,000 grams, of a substance or mixture
6 containing a detectable amount of marijuana; or
- 7 (B) More than 200, but not more than 500, mature marijuana plants, seedlings or starts;
- 8 (c) Crime category 8 of the sentencing guidelines grid if the violation involves:
- 9 (A) More than 5,000 grams, and not more than 20,000 grams, of a substance or mixture
10 containing a detectable amount of marijuana; or
- 11 (B) More than 50, but not more than 200, mature marijuana plants, seedlings or starts;
- 12 (d) Crime category 6 of the sentencing guidelines grid if the violation involves:
- 13 (A) More than 1,000 grams, and not more than 5,000 grams, of a substance or mixture
14 containing a detectable amount of marijuana; or
- 15 (B) More than 10, but not more than 50, mature marijuana plants, seedlings or starts;
16 or
- 17 (e) Crime category 4 of the sentencing guidelines grid if the violation involves:
- 18 (A) One thousand grams or less of a substance or mixture containing a detectable
19 amount of marijuana; or
- 20 (B) Ten or fewer mature marijuana plants, seedlings or starts.
- 21 (4) Any felony violation of ORS 475.864 shall be classified as:
- 22 (a) Crime category 10 of the sentencing guidelines grid if the violation involves:
- 23 (A) More than 50,000 grams of a substance or mixture containing a detectable amount
24 of marijuana; or
- 25 (B) More than 500 mature marijuana plants, seedlings or starts;
- 26 (b) Crime category 9 of the sentencing guidelines grid if the violation involves:
- 27 (A) More than 20,000 grams, and not more than 50,000 grams, of a substance or mixture
28 containing a detectable amount of marijuana; or
- 29 (B) More than 200, but not more than 500, mature marijuana plants, seedlings or starts;
- 30 (c) Crime category 8 of the sentencing guidelines grid if the violation involves:
- 31 (A) More than 5,000 grams, and not more than 20,000 grams, of a substance or mixture
32 containing a detectable amount of marijuana; or
- 33 (B) More than 50, but not more than 200, mature marijuana plants, seedlings or starts;
- 34 (d) Crime category 6 of the sentencing guidelines grid if the violation involves:
- 35 (A) More than 1,000 grams, and not more than 5,000 grams, of a substance or mixture
36 containing a detectable amount of marijuana; or
- 37 (B) More than 10, but not more than 50, mature marijuana plants, seedlings or starts;
38 or
- 39 (e) Crime category 1 of the sentencing guidelines grid if the violation involves:
- 40 (A) One thousand grams or less of a substance or mixture containing a detectable
41 amount of marijuana; or
- 42 (B) Ten or fewer mature marijuana plants, seedlings or starts.
- 43 [(3)] (5) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection
44 (1) [or], (2), (3) or (4) of this section shall be classified as:
- 45 (a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commis-

1 sion if the violation involves delivery or manufacture of a controlled substance; or

2 (b) Crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commis-
3 sion if the violation involves possession of a controlled substance.

4 [(4)] (6) In order to prove a commercial drug offense, the state shall plead in the accusatory
5 instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this sec-
6 tion. The state has the burden of proving each factor beyond a reasonable doubt.

7 [(5)] (7) As used in this section, “mixture or substance” means any mixture or substance,
8 whether or not the mixture or substance is in an ingestible or marketable form at the time of the
9 offense.

10 **SECTION 13.** ORS 475.924 is amended to read:

11 475.924. As used in ORS 164.061, 475.907, 475.924 and 475.925:

12 (1) “Controlled substance” means:

13 (a) Cocaine;

14 (b) Methamphetamine;

15 (c) Heroin; [or]

16 (d) Oxycodone; or

17 [(d)] (e) Ecstasy.

18 (2) “Ecstasy” means:

19 (a) 3,4-methylenedioxyamphetamine;

20 (b) 3,4-methylenedioxyamphetamine; or

21 (c) 3,4-methylenedioxy-N-ethylamphetamine.

22 (3) “Mixture or substance” means any mixture or substance, whether or not the mixture or
23 substance is in an ingestible or marketable form at the time of the offense.

24 (4) **“Serious physical injury” has the meaning given that term in ORS 161.015.**

25 **SECTION 14.** ORS 475.925 is amended to read:

26 475.925. When a person is convicted of the unlawful delivery or manufacture of a controlled
27 substance, the court shall sentence the person to a term of incarceration ranging from:

28 (1) 58 months to 130 months, depending on the person’s criminal history, if:

29 (a) The delivery or manufacture involves:

30 [(a)] (A) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;

31 [(b)] (B) 500 grams or more of a mixture or substance containing a detectable amount of meth-
32 amphetamine, its salts, isomers or salts of its isomers;

33 [(c)] (C) 100 grams or more of a mixture or substance containing a detectable amount of heroin;
34 or

35 [(d)] (D) 100 grams or more or 500 or more pills, tablets or capsules of a mixture or substance
36 containing a detectable amount of ecstasy[.]; or

37 (b) **The controlled substance delivered or manufactured is heroin or oxycodone and a
38 person who uses the heroin or oxycodone dies as a result of that use.**

39 (2) 34 months to 72 months, depending on the person’s criminal history, if:

40 (a) The delivery or manufacture involves:

41 [(a)] (A) 100 grams or more of a mixture or substance containing a detectable amount of cocaine;

42 [(b)] (B) 100 grams or more of a mixture or substance containing a detectable amount of meth-
43 amphetamine, its salts, isomers or salts of its isomers;

44 [(c)] (C) 50 grams or more of a mixture or substance containing a detectable amount of heroin;
45 or

1 [(d)] **(D)** 50 grams or more or 250 or more pills, tablets or capsules of a mixture or substance
2 containing a detectable amount of ecstasy[.]; **or**

3 **(b) The controlled substance delivered or manufactured is heroin or oxycodone and a**
4 **person who uses the heroin or oxycodone sustains a serious physical injury as a result of**
5 **that use.**

6 **SECTION 15.** The amendments to ORS 475.806, 475.808, 475.810, 475.812, 475.814, 475.816,
7 475.820, 475.824, 475.826, 475.830, 475.834, 475.900, 475.924 and 475.925 by sections 1 to 14 of this
8 2013 Act apply to conduct occurring on or after the effective date of this 2013 Act.

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

12