

House Bill 2409

Sponsored by Representatives GILLIAM, BARTON; Representatives GARRETT, OLSON, TOMEI, Senator JOHNSON (at the request of John S. Foote, Clackamas County District Attorney) (Pre-session 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 **as introduced**.

Modifies controlled substance offenses where occurrence of offense within 1,000 feet of school is element of crime to include preschools.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to controlled substances; creating new provisions; amending ORS 430.590, 475.808, 475.812,
3 475.818, 475.822, 475.828, 475.832, 475.848, 475.852, 475.858, 475.860, 475.862, 475.864, 475.868,
4 475.872, 475.878, 475.882, 475.888, 475.892 and 475.904; and declaring an emergency.

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

5 **SECTION 1.** ORS 430.590 is amended to read:

6 430.590. (1) It is unlawful for any person to commence operating a methadone clinic:

7
8 (a) Within 1,000 feet of the real property comprising an existing public or private [*elementary,*
9 *secondary or career school*] **preschool or school** attended primarily by minors; or

10 (b) Within 1,000 feet of the real property comprising an existing licensed child care facility. As
11 used in this section, "licensed child care facility" means a child care center certified under ORS
12 657A.280 that is operating under authority of a valid business license.

13 (2) Commencing operation of a methadone clinic within 1,000 feet of a **preschool**, school or li-
14 censed child care facility is a nuisance and operation of the clinic shall be enjoined and abated as
15 provided in ORS 105.550 to 105.600.

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

17 475.808. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
18 for any person to manufacture hydrocodone within 1,000 feet of the real property comprising a
19 public or private [*elementary, secondary or career school*] **preschool or school** attended primarily
20 by minors.

21 (2) Unlawful manufacture of hydrocodone within 1,000 feet of a **preschool or school** is a Class
22 B felony.

23 **SECTION 3.** ORS 475.812 is amended to read:

24 475.812. (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 deliver hydrocodone within 1,000 feet of the real property comprising a public or
26 private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

27 (2) Unlawful delivery of hydrocodone within 1,000 feet of a **preschool or school** is a Class B
28 felony.

29 **SECTION 4.** ORS 475.818 is amended to read:

30 475.818. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful

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 for any person to manufacture methadone within 1,000 feet of the real property comprising a public
 2 or private [*elementary, secondary or career school*] **preschool or school** attended primarily by mi-
 3 nors.

4 (2) Unlawful manufacture of methadone within 1,000 feet of a **preschool or** school is a Class A
 5 felony.

6 **SECTION 5.** ORS 475.822 is amended to read:

7 475.822. (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 deliver methadone within 1,000 feet of the real property comprising a public or
 9 private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

10 (2) Unlawful delivery of methadone within 1,000 feet of a **preschool or** school is a Class A fel-
 11 ony.

12 **SECTION 6.** ORS 475.828 is amended to read:

13 475.828. (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 oxycodone within 1,000 feet of the real property comprising a public
 15 or private [*elementary, secondary or career school*] **preschool or school** attended primarily by mi-
 16 nors.

17 (2) Unlawful manufacture of oxycodone within 1,000 feet of a **preschool or** school is a Class A
 18 felony.

19 **SECTION 7.** ORS 475.832 is amended to read:

20 475.832. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
 21 for any person to deliver oxycodone within 1,000 feet of the real property comprising a public or
 22 private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

23 (2) Unlawful delivery of oxycodone within 1,000 feet of a **preschool or** school is a Class A fel-
 24 ony.

25 **SECTION 8.** ORS 475.848 is amended to read:

26 475.848. (1) It is unlawful for any person to manufacture heroin within 1,000 feet of the real
 27 property comprising a public or private [*elementary, secondary or career school*] **preschool or school**
 28 attended primarily by minors.

29 (2) Unlawful manufacture of heroin within 1,000 feet of a **preschool or** school is a Class A fel-
 30 ony.

31 **SECTION 9.** ORS 475.852 is amended to read:

32 475.852. (1) It is unlawful for any person to deliver heroin within 1,000 feet of the real property
 33 comprising a public or private [*elementary, secondary or career school*] **preschool or school** attended
 34 primarily by minors.

35 (2) Unlawful delivery of heroin within 1,000 feet of a **preschool or** school is a Class A felony.

36 **SECTION 10.** ORS 475.858 is amended to read:

37 475.858. (1) It is unlawful for any person to manufacture marijuana within 1,000 feet of the real
 38 property comprising a public or private [*elementary, secondary or career school*] **preschool or school**
 39 attended primarily by minors.

40 (2) Unlawful manufacture of marijuana within 1,000 feet of a **preschool or** school is a Class A
 41 felony.

42 **SECTION 11.** ORS 475.860 is amended to read:

43 475.860. (1) It is unlawful for any person to deliver marijuana.

44 (2) Unlawful delivery of marijuana is a:

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

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

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

3 (a) Class A misdemeanor, if the delivery is for no consideration and consists of less than one
4 avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae; or

5 (b) Violation, if the delivery is for no consideration and consists of less than five grams of the
6 dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this par-
7 agraph is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.

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

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

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

13 (A) Is for no consideration;

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

16 (C) Takes place in a public place, as defined in ORS 161.015, that is within 1,000 feet of the real
17 property comprising a public or private [*elementary, secondary or career school*] **preschool or school**
18 attended primarily by minors; and

19 (D) Is to a person who is 18 years of age or older.

20 **SECTION 12.** ORS 475.862 is amended to read:

21 475.862. (1) It is unlawful for any person to deliver marijuana within 1,000 feet of the real
22 property comprising a public or private [*elementary, secondary or career school*] **preschool or school**
23 attended primarily by minors.

24 (2) Unlawful delivery of marijuana within 1,000 feet of a **preschool or school** is a Class A fel-
25 ony.

26 **SECTION 13.** ORS 475.864 is amended to read:

27 475.864. (1) It is unlawful for any person knowingly or intentionally to possess marijuana.

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

29 (3) Notwithstanding subsection (2) of this section, unlawful possession of marijuana is a violation
30 if the amount possessed is less than one avoirdupois ounce of the dried leaves, stems and flowers
31 of the plant Cannabis family Moraceae. A violation under this subsection is a specific fine violation.
32 The presumptive fine for a violation under this subsection is \$650.

33 (4) Notwithstanding subsections (2) and (3) of this section, unlawful possession of marijuana is
34 a Class C misdemeanor if the amount possessed is less than one avoirdupois ounce of the dried
35 leaves, stems and flowers of the plant Cannabis family Moraceae and the possession takes place in
36 a public place, as defined in ORS 161.015, that is within 1,000 feet of the real property comprising
37 a public or private [*elementary, secondary or career school*] **preschool or school** attended primarily
38 by minors.

39 **SECTION 14.** ORS 475.868 is amended to read:

40 475.868. (1) It is unlawful for any person to manufacture 3,4-methylenedioxymethamphetamine
41 within 1,000 feet of the real property comprising a public or private [*elementary, secondary or career*
42 *school*] **preschool or school** attended primarily by minors.

43 (2) Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of a **pre-**
44 **school or school** is a Class A felony.

45 **SECTION 15.** ORS 475.872 is amended to read:

1 475.872. (1) It is unlawful for any person to deliver 3,4-methylenedioxyamphetamine within
 2 1,000 feet of the real property comprising a public or private [*elementary, secondary or career*
 3 *school*] **preschool or school** attended primarily by minors.

4 (2) Unlawful delivery of 3,4-methylenedioxyamphetamine within 1,000 feet of a **preschool**
 5 **or school** is a Class A felony.

6 **SECTION 16.** ORS 475.878 is amended to read:

7 475.878. (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 cocaine within 1,000 feet of the real property comprising a public or
 9 private [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

10 (2) Unlawful manufacture of cocaine within 1,000 feet of a **preschool or school** is a Class A
 11 felony.

12 **SECTION 17.** ORS 475.882 is amended to read:

13 475.882. (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 deliver cocaine within 1,000 feet of the real property comprising a public or pri-
 15 vate [*elementary, secondary or career school*] **preschool or school** attended primarily by minors.

16 (2) Unlawful delivery of cocaine within 1,000 feet of a **preschool or school** is a Class A felony.

17 **SECTION 18.** ORS 475.888 is amended to read:

18 475.888. (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 manufacture methamphetamine within 1,000 feet of the real property comprising
 20 a public or private [*elementary, secondary or career school*] **preschool or school** attended primarily
 21 by minors.

22 (2) Unlawful manufacture of methamphetamine within 1,000 feet of a **preschool or school** is a
 23 Class A felony.

24 (3) The minimum fine for unlawful manufacture of methamphetamine within 1,000 feet of a **pre-**
 25 **school or school** is \$1,000.

26 **SECTION 19.** ORS 475.892 is amended to read:

27 475.892. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
 28 for any person to deliver methamphetamine within 1,000 feet of the real property comprising a public
 29 or private [*elementary, secondary or career school*] **preschool or school** attended primarily by mi-
 30 nors.

31 (2) Unlawful delivery of methamphetamine within 1,000 feet of a **preschool or school** is a Class
 32 A felony.

33 (3) The minimum fine for unlawful delivery of methamphetamine within 1,000 feet of a **preschool**
 34 **or school** is \$500.

35 **SECTION 20.** ORS 475.904 is amended to read:

36 475.904. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
 37 for any person to manufacture or deliver a schedule I, II or III controlled substance within 1,000 feet
 38 of the real property comprising a public or private [*elementary, secondary or career school*] **pre-**
 39 **school or school** attended primarily by minors.

40 (2) Unlawful manufacture or delivery of a controlled substance within 1,000 feet of a **preschool**
 41 **or school** is a Class A felony, except as otherwise provided in ORS 475.860.

42 **SECTION 21.** The amendments to ORS 430.590, 475.808, 475.812, 475.818, 475.822, 475.828,
 43 475.832, 475.848, 475.852, 475.858, 475.860, 475.862, 475.864, 475.868, 475.872, 475.878, 475.882,
 44 475.888, 475.892 and 475.904 by sections 1 to 20 of this 2013 Act apply to conduct occurring on
 45 or after the effective date of this 2013 Act.

1 **SECTION 22.** This 2013 Act being necessary for the immediate preservation of the public
2 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
3 on its passage.
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