

A-Engrossed
House Bill 3371

Ordered by the House April 8
Including House Amendments dated April 8

Sponsored by COMMITTEE ON REVENUE

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.

Provides for regulation of production, processing and sale of marijuana and marijuana-infused products. Directs [*Oregon Health Authority*] **Oregon Liquor Control Commission** 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.*]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the Control, Regulation and Taxation of Cannabis Act; creating new provisions; amend-
3 ing ORS 90.396, 453.858, 475.005, 475.525, 475.856, 475.860, 475.864, 475.900, 475.908, 475.910,
4 475.933 and 571.315; repealing ORS 475.059; prescribing an effective date; and providing for re-
5 venue raising that requires approval by a three-fifths majority.

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 known and may be cited**
8 **as the Control, Regulation and Taxation of Cannabis Act.**

9 **SECTION 2. Purposes and limitations. (1) The Legislative Assembly finds and declares**
10 **that:**

11 **(a) Marijuana is not a controlled substance under ORS chapter 475;**

12 **(b) The regulation of marijuana shall be modeled after the regulation of liquor under ORS**
13 **chapter 471; and**

14 **(c) The applicability of crimes in this state related to manufacturing, delivering or pos-**
15 **sessing marijuana shall be limited to persons under 21 years of age or, for delivery of**
16 **marijuana, to persons who deliver marijuana to persons under 21 years of age.**

17 **(2) The purposes of sections 1 to 47 of this 2013 Act are:**

18 **(a) To establish a comprehensive state policy concerning Cannabis, which includes**
19 **marijuana and industrial hemp, under existing state law;**

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

22 **(c) To eliminate the problems caused by the prohibition and uncontrolled manufacture,**

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 **delivery and possession of marijuana in this state; and**

2 **(d) To ensure that the State Department of Agriculture issues industrial hemp licenses**
3 **and agricultural hemp seed production permits in accordance with existing law.**

4 **(3) Sections 1 to 47 of this 2013 Act may not be construed:**

5 **(a) To amend or affect in any way the definition or interpretation of the term “controlled**
6 **substance”:**

7 **(A) In any statute or rule that applies to the operation of a vehicle, boat or aircraft, in-**
8 **cluding the Oregon Vehicle Code and ORS chapters 830 and 837; or**

9 **(B) In any other statute or rule that does not expressly refer to the definition of “con-**
10 **trolled substance” in ORS 475.005;**

11 **(b) To prohibit an employer from prohibiting the manufacture, delivery, possession or use**
12 **of marijuana in the workplace;**

13 **(c) To amend or affect any state or federal law relating to tenancy;**

14 **(d) To prohibit a recipient of a federal grant or an applicant for a federal grant from**
15 **prohibiting the manufacture, delivery, possession or use of marijuana to the extent neces-**
16 **sary to satisfy federal requirements for the grant;**

17 **(e) To prohibit a party to a federal contract or a person applying to be a party to a fed-**
18 **eral contract from prohibiting the manufacture, delivery, possession or use of marijuana to**
19 **the extent necessary to comply with the terms and conditions of the contract or to satisfy**
20 **federal requirements for the contract;**

21 **(f) To require a person to violate a federal law;**

22 **(g) To exempt a person from a federal law or obstruct the enforcement of a federal law;**

23 **or**

24 **(h) To amend or affect in any way the Oregon Medical Marijuana Act.**

25 **(4) Consistent with subsections (1) to (3) of this section, it is the policy of this state to**
26 **encourage the development of all industries.**

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

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

31 **(2) “Deliver” or “delivery” has the meaning given that term in ORS 475.005.**

32 **(3) “Homegrown” or “homemade” means produced for noncommercial purposes.**

33 **(4) “Manufacture” has the meaning given that term in ORS 475.005.**

34 **(5)(a) “Marijuana” means:**

35 **(A) All parts of the plant Cannabis family Moraceae;**

36 **(B) Resin extracted from a part of the plant; or**

37 **(C) A compound, manufacture, salt, derivative, mixture or preparation of the plant or the**
38 **resin extracted from a part of the plant.**

39 **(b) “Marijuana” does not include:**

40 **(A) The mature stalks of the plant Cannabis family Moraceae;**

41 **(B) Fiber produced from the stalks of the plant;**

42 **(C) Oil or cake made from the seeds of the plant;**

43 **(D) A compound, manufacture, salt, derivative, mixture or preparation of the mature**
44 **stalks of the plant, fiber produced from the stalks of the plant or oil or cake made from the**
45 **seeds of the plant, unless the compound, manufacture, salt, derivative, mixture or prepara-**

1 tion is of the resin extracted from the mature stalks of the plant;

2 (E) A sterilized seed of the plant that is incapable of germination; or

3 (F) Industrial hemp, as defined in ORS 571.300, or industrial hemp commodities or pro-
4 ducts.

5 (6)(a) "Marijuana-infused products" means products that contain marijuana or marijuana
6 extracts and that are intended for human consumption.

7 (b) "Marijuana-infused products" does not include marijuana.

8 (7) "Marijuana processor" means a person who processes marijuana or marijuana-infused
9 products in this state.

10 (8) "Marijuana producer" means a person who produces marijuana in this state.

11 (9) "Marijuana retailer" means a person who sells marijuana or marijuana-infused pro-
12 ducts to a consumer in this state.

13 (10) "Marijuana wholesaler" means a person who purchases marijuana or marijuana-
14 infused products in this state for resale to a person other than a consumer in this state.

15 (11) "Noncommercial" means not dependent or conditioned upon the provision or receipt
16 of financial consideration.

17 (12) "Premises" means:

18 (a) All enclosed areas at a location that are used for the production, processing or retail
19 sale of marijuana or marijuana-infused products; and

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

22 (13) "Process" includes the processing, packaging, repackaging, labeling or relabeling of
23 marijuana, marijuana-infused products or any container of marijuana or marijuana-infused
24 products.

25 (14) "Produce" includes the production, manufacture, planting, cultivation, growing or
26 harvesting of marijuana or the production or manufacture of marijuana-infused products.

27 (15)(a) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis
28 family Moraceae, and any mixture or preparation thereof.

29 (b) "Usable marijuana" does not include the seeds, stalks and roots of the plant Cannabis
30 family Moraceae.

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

32 (1) To the production, processing, keeping, storage or transportation of homegrown
33 marijuana if the total amount of marijuana produced, processed, kept, stored or transported
34 does not exceed six mature marijuana plants and 24 ounces of usable marijuana at a given
35 time;

36 (2) To the production, processing, keeping, storage or transportation of homemade
37 marijuana-infused products if the total amount of homemade marijuana-infused products
38 produced, processed, kept, stored or transported does not exceed 16 ounces when in solid
39 form;

40 (3) To the production, processing, keeping, storage or transportation of homemade
41 marijuana-infused products if the total amount of homemade marijuana-infused products
42 produced, processed, kept, stored or transported does not exceed 72 ounces when in liquid
43 form; or

44 (4) To the extent a person acts within the scope of and in compliance with the Oregon
45 Medical Marijuana Act.

1 **SECTION 5. Powers and duties of Oregon Liquor Control Commission.** (1) The Oregon
2 Liquor Control Commission shall:

3 (a) Regulate the production, possession, sale, purchase, transportation, importation and
4 delivery of marijuana and marijuana-infused products in accordance with sections 1 to 47 of
5 this 2013 Act.

6 (b) Grant, refuse, suspend or cancel licenses for the sale or production of marijuana or
7 marijuana-infused products and may permit, in the commission's discretion, the transfer of
8 a license between persons.

9 (c) Collect the taxes and duties imposed under sections 25 to 36 of this 2013 Act and issue
10 evidence of payment of taxes or duties.

11 (d) Aid in the investigation and prosecution of violations of sections 1 to 47 of this 2013
12 Act.

13 (e) Adopt rules as are necessary to administer or carry out the commission's duties un-
14 der sections 1 to 47 of this 2013 Act.

15 (f) Exercise all powers incidental, convenient or necessary to administer or carry out the
16 commission's duties under sections 1 to 47 of this 2013 Act.

17 (g) Regulate or prohibit advertising by marijuana producers, marijuana retailers or
18 marijuana wholesalers.

19 (h) Regulate the use of marijuana and marijuana-infused products for scientific, phar-
20 maceutical, manufacturing, mechanical, industrial or other purposes.

21 (2) The commission may not purchase, own or sell marijuana or marijuana-infused pro-
22 ducts.

23 **SECTION 6. Powers and duties of Oregon Health Authority.** The Oregon Health Authority
24 shall assist and cooperate with the Oregon Liquor Control Commission to the extent neces-
25 sary for the commission to carry out the duties of the commission under sections 1 to 47
26 of this 2013 Act.

27 **SECTION 7. Powers and duties of State Department of Agriculture.** The State Depart-
28 ment of Agriculture shall assist and cooperate with the Oregon Liquor Control Commission
29 to the extent necessary for the commission to carry out the duties of the commission under
30 sections 1 to 47 of this 2013 Act.

31 **SECTION 8. Purchase and use of marijuana by member or employee.** No provision of
32 sections 1 to 47 of this 2013 Act prevents any member or employee of the Oregon Liquor
33 Control Commission, the Oregon Health Authority or the State Department of Agriculture
34 from purchasing and keeping in possession, for the personal use of the member or employee
35 or members of the family of the member or employee, any marijuana or marijuana-infused
36 products in the same manner as they may be purchased or kept by any other person under
37 sections 1 to 47 of this 2013 Act.

38 **SECTION 9. Preemption of inconsistent charters and ordinances.** Sections 1 to 47 of this
39 2013 Act are designed to operate uniformly throughout the state and preempt all municipal
40 charter enactments or local ordinances that are inconsistent with sections 1 to 47 of this
41 2013 Act.

42 **SECTION 10. Authority of cities and counties over marijuana retailers.** Cities and coun-
43 ties may adopt reasonable time, place and manner ordinances for the regulation of marijuana
44 retailers if the governing body of the city or county makes specific findings that adverse ef-
45 fects will otherwise occur.

1 **SECTION 11. Licenses; federal law.** The Oregon Liquor Control Commission may not re-
2 fuse to issue or renew, or suspend or revoke, a license issued under sections 12 to 24 of this
3 2013 Act on the basis that producing, delivering and possessing marijuana is prohibited by
4 federal law.

5 **SECTION 12. Oregon Liquor Control Commission's licensing duties.** (1) The Oregon Li-
6 quor Control Commission shall issue and renew the licenses described in sections 14, 15, 16
7 and 17 of this 2013 Act in the manner provided in sections 12 to 24 of this 2013 Act.

8 (2) Refusal to issue or renew, or suspension or revocation of, a license as provided in
9 sections 12 to 24 of this 2013 Act is subject to the provisions of ORS chapter 183.

10 **SECTION 13. Application for license; rules; fees.** (1) A person may apply to the Oregon
11 Liquor Control Commission for the issuance or renewal of a license described in section 14,
12 15, 16 or 17 of this 2013 Act on a form and in a manner prescribed by the commission by rule.
13 An application submitted under this section must include the name and address of the ap-
14 plicant, location of the premises that is to be operated under the license and any other in-
15 formation the commission may require.

16 (2) The commission shall issue an applicant the license for which the applicant applied
17 if:

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

19 (b) The commission considers the applicant qualified under section 14, 15, 16 or 17 of this
20 2013 Act;

21 (c) For the issuance of a license, the commission considers the applicant to be in com-
22 pliance with section 20 of this 2013 Act; and

23 (d) For the renewal of a license, the commission considers the applicant to be in com-
24 pliance with section 21 of this 2013 Act.

25 (3) The commission shall assess a nonrefundable fee for processing an application to issue
26 a license under this section. The application processing fee shall be \$250 or an amount that
27 the commission adopts by rule.

28 (4) The annual license fee for a license issued by the commission under this section shall
29 be \$1,000 or an amount that the commission adopts by rule. The license fee is nonrefundable
30 and shall be paid by each applicant upon the issuance or renewal of a license. All moneys
31 collected by the commission under this section shall be deposited into the suspense account
32 described in section 35 of this 2013 Act for the purposes specified in sections 35 and 36 of this
33 2013 Act.

34 **SECTION 14. Production license; rules.** (1) The Oregon Liquor Control Commission shall
35 adopt rules establishing the qualifications of a marijuana producer.

36 (2) A marijuana producer must have a production license issued by the commission for
37 the premises at which marijuana is produced.

38 **SECTION 15. Processor license; rules.** (1) The Oregon Liquor Control Commission shall
39 adopt rules establishing the qualifications of a marijuana processor.

40 (2) A marijuana processor must have a processor license issued by the commission for
41 the premises at which marijuana or marijuana-infused products are processed.

42 **SECTION 16. Wholesale license; rules.** (1) The Oregon Liquor Control Commission shall
43 adopt rules establishing the qualifications of a marijuana wholesaler.

44 (2) A marijuana wholesaler must have a wholesale license issued by the commission for
45 the premises at which marijuana or marijuana-infused products are received, kept, stored

1 or delivered.

2 **SECTION 17. Retail license; rules.** (1) The Oregon Liquor Control Commission shall adopt
3 rules establishing the qualifications of a marijuana retailer.

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

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

8 (a) Shall be a personal privilege.

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

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

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

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

16 (f) Shall cease upon the death, insolvency or bankruptcy of the licensee, except as pro-
17 vided in subsection (2) of this section.

18 (g) Does not constitute property.

19 (h) In not alienable.

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

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

22 (2) The commission may, by order, provide for the manner and conditions under which:

23 (a) Marijuana or marijuana-infused products left by a deceased, insolvent or bankrupt
24 licensee, or subject to a security interest, may be disposed of.

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

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

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

31 **SECTION 20. Grounds for refusing to issue license.** The Oregon Liquor Control Commis-
32 sion may refuse to issue a license under section 13 of this 2013 Act if the commission finds
33 or has reasonable ground to believe any of the following:

34 (1) That there are sufficient licensed premises in the location requested in the application
35 or that the granting of a license in the location is not demanded by public interest or con-
36 venience. In determining whether there are sufficient licensed premises in the location, the
37 commission shall consider seasonal fluctuations in the population of the location and ensure
38 that there are adequate licensed premises to serve the needs of the location during peak
39 seasons.

40 (2) That the premises named in the application does not have defined boundaries. The
41 commission may require that a premises be enclosed by a wall, fence or other structure as
42 a condition of issuing a license. The commission may not license premises that are mobile.

43 (3) That the applicant:

44 (a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled sub-
45 stances to excess.

1 (b) Has made false statements to the commission.

2 (c) Is incompetent or physically unable to meet the requirements of the business pro-
3 posed to be licensed.

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

7 (e) Is mentally incompetent.

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

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

11 (h) Is not the legitimate owner of the business proposed to be licensed or has not dis-
12 closed other persons who have an ownership interest in the business.

13 (i) Has not demonstrated financial responsibility sufficient to adequately meet the re-
14 quirements of the business proposed to be licensed.

15 **SECTION 21. Grounds for revocation or suspension of license.** The Oregon Liquor Con-
16 trol Commission may revoke or suspend a license issued under section 13 of this 2013 Act if
17 the commission finds or has reasonable ground to believe any of the following:

18 (1) That the licensee:

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

21 (b) Has made a false representation or statement to the commission in order to induce
22 or prevent action by the commission.

23 (c) Is mentally incompetent.

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

26 (e) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled sub-
27 stances to excess.

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

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

32 (2) That there is any other reason that, in the opinion of the commission, based on public
33 convenience or necessity, warrants revoking or suspending the license.

34 **SECTION 22. No "tied house" prohibitions.** A person may hold one or more production
35 licenses, one or more processor licenses and one or more retail licenses.

36 **SECTION 23. Delivery of marijuana.** A marijuana producer, marijuana processor or
37 marijuana wholesaler may deliver marijuana and marijuana-infused products only to a li-
38 censed premises. A marijuana retailer is restricted to selling marijuana and marijuana-
39 infused products on the premises described in the license, but may deliver marijuana and
40 marijuana-infused products to consumers pursuant to bona fide orders received by a business
41 located on a licensed premises.

42 **SECTION 24. Examination of books and premises of licensees.** (1) The Oregon Liquor
43 Control Commission, after providing 72 hours notice to a person licensed under sections 12
44 to 24 of this 2013 Act, may make an examination of the books kept at the premises for the
45 purpose of determining compliance with sections 1 to 47 of this 2013 Act and rules adopted

1 by the commission under sections 1 to 47 of this 2013 Act.

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

6 SECTION 25. Administration by Oregon Liquor Control Commission. The Oregon Liquor
7 Control Commission shall administer sections 25 to 36 of this 2013 Act and prescribe forms
8 and adopt rules as the commission considers necessary to enforce sections 25 to 36 of this
9 2013 Act.

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

13 (2) The rate of tax imposed by this section applies proportionately to quantities of
14 marijuana that are less than one ounce.

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

17 (4) All moneys collected by the Oregon Liquor Control Commission under this section
18 shall be deposited into the suspense account described in section 35 of this 2013 Act for
19 purposes specified in sections 35 and 36 of this 2013 Act.

20 SECTION 27. Payment of taxes; refunds; interest or penalty; appeal. (1) The privilege tax
21 imposed by section 26 of this 2013 Act shall be paid to the Oregon Liquor Control Commis-
22 sion. Taxes to be paid during the periods for which statements are required under section
23 28 of this 2013 Act shall be paid before the time for filing such statements expires. If not so
24 paid, a penalty of 10 percent and interest at the rate of one percent a month or fraction of
25 a month shall be added and collected. The commission may refund a tax payment imposed
26 upon or paid in error by a marijuana producer. The commission may waive the collection or
27 refund the payment of a tax imposed and collected on marijuana determined by the com-
28 mission to be unfit for human consumption or not salable.

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

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

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

37 SECTION 28. Statements by marijuana producers as to quantities produced. On or before
38 the 20th day of each month, every marijuana producer shall file with the Oregon Liquor
39 Control Commission a statement of the quantity of marijuana produced by the marijuana
40 producer during the preceding calendar month.

41 SECTION 29. Estimate by Oregon Liquor Control Commission when statement not filed
42 or false statement filed. If a marijuana producer fails, neglects or refuses to file a statement
43 required by section 28 of this 2013 Act or files a false statement, the Oregon Liquor Control
44 Commission shall estimate the amount of marijuana produced by the marijuana producer and
45 assess the privilege tax imposed under section 26 of this 2013 Act on the basis of the esti-

1 mate. The marijuana producer may not make an appeal under section 27 of this 2013 Act if
2 the marijuana producer fails, neglects or refuses to file a statement or files a false state-
3 ment.

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

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

15 **SECTION 32. Inspection of marijuana producer's records; records to be kept for pre-**
16 **scribed period.** (1) The Oregon Liquor Control Commission may, at any time, examine the
17 records and books of a marijuana producer. The commission may appoint auditors, investi-
18 gators and other employees that the commission considers necessary to enforce its powers
19 and perform its duties under sections 25 to 36 of this 2013 Act.

20 (2) A marijuana producer shall maintain and keep for two years all records required by
21 section 31 of this 2013 Act and all books of accounts related to the production of marijuana.
22 A marijuana producer shall provide copies of those records and books to the commission
23 when requested by the commission.

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

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

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

28 (2) A person may not:

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

32 (b) Fail to keep books of accounts required by sections 25 to 36 of this 2013 Act;

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

34 or

35 (d) Alter, cancel or obliterate entries in the books of accounts for the purpose of falsi-
36 fying a record required by sections 25 to 36 of this 2013 Act.

37 **SECTION 34. State has exclusive right to tax marijuana.** No county or city of this state
38 shall impose a fee or tax, including occupation taxes, privilege taxes or inspection fees, in
39 connection with the production, sale, transporting, delivering or handling of marijuana.

40 **SECTION 35. Disposition of moneys; revolving fund.** (1) All moneys collected by the
41 Oregon Liquor Control Commission under sections 1 to 47 of this 2013 Act shall be paid to
42 the State Treasurer who shall credit the moneys to a suspense account of the commission.
43 Whenever the commission receives moneys in excess of the amount legally due and payable
44 to the commission, the commission shall refund the excess amount by check drawn upon the
45 State Treasurer and charged to the suspense account. After withholding a sum, not to ex-

1 ceed \$250,000, as the commission considers necessary as a revolving fund for refunds and a
2 working cash balance, the commission shall direct the State Treasurer to transfer the
3 moneys remaining in the suspense account to the Cannabis Tax Account established under
4 section 36 of this 2013 Act for the purpose of making the distributions required by section
5 36 of this 2013 Act.

6 (2) All necessary expenditures of the commission incurred in carrying out sections 1 to
7 47 of this 2013 Act, including sums necessary to reimburse the suspense account of the
8 commission, shall be paid from the Cannabis Tax Account.

9 SECTION 36. Cannabis Tax Account; distribution of available moneys. (1) There is es-
10 tablished the Cannabis Tax Account in the General Fund. The account shall consist of mon-
11 eys transferred to the account under section 35 of this 2013 Act.

12 (2) At the end of each month, the Oregon Liquor Control Commission shall determine the
13 amount of moneys available for distribution in the Cannabis Tax Account and, after with-
14 holding an amount that the commission considers necessary to carry out the duties of the
15 commission under sections 1 to 47 of this 2013 Act, direct the State Treasurer to distribute
16 the moneys as follows:

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

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

20 (c) Twenty percent shall be transferred to the Mental Health Alcoholism and Drug Ser-
21 vices Account established under ORS 430.380; and

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

24 SECTION 37. Importing marijuana and marijuana-infused products prohibited. Marijuana
25 and marijuana-infused products may not be imported into or exported from this state by any
26 person.

27 SECTION 38. Marijuana and marijuana-infused products may not be given as prize.
28 Marijuana and marijuana-infused products may not be given as a prize, premium or consid-
29 eration for a lottery, contest, competition or game of chance or skill of any kind.

30 SECTION 39. Duty of officers to enforce and to inform district attorney. The state police,
31 sheriffs, constables and police officers in this state shall enforce sections 1 to 47 of this 2013
32 Act and assist the Oregon Liquor Control Commission in detecting violations of sections 1
33 to 47 of this 2013 Act and apprehending offenders. An officer having notice, knowledge or
34 reasonable ground of suspicion of a violation of sections 1 to 47 of this 2013 Act shall imme-
35 diately notify the district attorney of the county in which the violation occurred and furnish
36 the district attorney with the names and addresses of all witnesses and with other informa-
37 tion within the officer's knowledge pertaining to the violation.

38 SECTION 40. Confiscation of marijuana or marijuana-infused products and property.
39 Whenever an officer arrests a person for violating sections 1 to 47 of this 2013 Act, the of-
40 ficer may take into possession any marijuana or marijuana-infused products and property
41 used to produce, process or sell marijuana or marijuana-infused products in the possession
42 of the person or on the premises where the violation occurred. If the person arrested is
43 convicted and it is found that the marijuana or marijuana-infused products or property was
44 used in violation of the law, the marijuana or marijuana-infused products and property is
45 forfeited to the state. Forfeited marijuana and marijuana-infused products shall be destroyed

1 and forfeited property shall be destroyed or sold. Proceeds from sold property shall be de-
2 posited in the Common School Fund.

3 SECTION 41. Duty to notify of conviction of licensee. A county court, district attorney
4 or municipal authority, immediately upon the conviction of a person licensed under sections
5 12 to 24 of this 2013 Act, shall notify the Oregon Liquor Control Commission of the con-
6 viction.

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

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

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

25 SECTION 44. Governor authorized to suspend license. In case of invasion, disaster,
26 insurrection, riot or imminent danger of invasion, disaster, insurrection or riot, the Gover-
27 nor may, for the duration of the invasion, disaster, insurrection, riot or imminent danger
28 of invasion, disaster, insurrection or riot, immediately suspend without notice a license is-
29 sued under sections 12 to 24 of this 2013 Act in the area subject to or threatened by the in-
30 vasion, disaster, insurrection or riot.

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

33 (2) Subject to ORS 153.022, violation of a rule adopted by the Oregon Liquor Control
34 Commission under sections 1 to 47 of this 2013 Act is a Class B violation.

35 SECTION 46. Unlawful use of marijuana and marijuana-infused products. (1)
36 Notwithstanding sections 1 to 47 of this 2013 Act, it is unlawful for any person to engage in
37 the use of marijuana or marijuana-infused products in a public place, as defined in ORS
38 161.015, in public view, in a correctional facility as defined in ORS 162.135 or in a youth cor-
39 rection facility as defined in ORS 162.135.

40 (2) Violation of this section is a specific fine violation. The presumptive fine for a vio-
41 lation of this section is \$650.

42 SECTION 47. Severability. If a provision of sections 1 to 47 of this 2013 Act or its appli-
43 cation to a person or circumstance is held invalid, the invalidity does not affect other pro-
44 visions or applications of sections 1 to 47 of this 2013 Act that can be given effect without
45 the invalid provision or application. To this end, the provisions of sections 1 to 47 of this 2013

1 **Act are severable.**

2 **SECTION 48.** ORS 475.856, 475.858, 475.860, 475.862, 475.864, 571.300, 571.305 and 571.315 are
3 **added to and made a part of sections 1 to 47 of this 2013 Act.**

4 **SECTION 49.** ORS 475.856 is amended to read:

5 475.856. (1) It is unlawful for any person **under 21 years of age** to manufacture marijuana.

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

7 **SECTION 50.** ORS 475.860 is amended to read:

8 475.860. (1) It is unlawful:

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

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

11 (2) Unlawful delivery of marijuana is a:

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

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

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

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

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

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

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

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

25 (A) Is for no consideration;

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

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

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

32 **SECTION 51.** ORS 475.864 is amended to read:

33 475.864. (1) It is unlawful for any person **under 21 years of age** knowingly or intentionally to
34 possess marijuana.

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

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

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

45 **SECTION 52.** ORS 571.315 is amended to read:

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

4 (a) A license or permit requirement;

5 (b) License or permit terms or conditions;

6 (c) Department rules relating to growing or handling industrial hemp; or

7 (d) A final order of the department that is specifically directed to the grower's or handler's in-
8 dustrial hemp operations or activities.

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

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

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

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

20 **SECTION 53.** ORS 475.005 is amended to read:

21 475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires
22 otherwise:

23 (1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or
24 medical supervision, which may have a detrimental effect on the individual or society.

25 (2) "Administer" means the direct application of a controlled substance, whether by injection,
26 inhalation, ingestion or any other means, to the body of a patient or research subject by:

27 (a) A practitioner or an authorized agent thereof; or

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

29 (3) "Administration" means the Drug Enforcement Administration of the United States Depart-
30 ment of Justice, or its successor agency.

31 (4) "Agent" means an authorized person who acts on behalf of or at the direction of a man-
32 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public
33 warehouseman or employee of the carrier or warehouseman.

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

35 (6) "Controlled substance":

36 (a) Means, **except as provided in paragraphs (b) and (c) of this subsection**, a drug or its
37 immediate precursor classified in Schedules I through V under the federal Controlled Substances
38 Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term "precursor" in this
39 paragraph does not control and is not controlled by the use of the term "precursor" in ORS 475.752
40 to 475.980.

41 (b) Does not *[mean]* **include** industrial hemp, as defined in ORS 571.300, or industrial hemp
42 commodities or products.

43 **(c) Does not include marijuana.**

44 (7) "Counterfeit substance" means a controlled substance or its container or labeling, which,
45 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number

1 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person
2 who in fact manufactured, delivered or dispensed the substance.

3 (8) "Deliver" or "delivery" means the actual, constructive or attempted transfer, other than by
4 administering or dispensing, from one person to another of a controlled substance, whether or not
5 there is an agency relationship.

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

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

10 (b) To affect the structure of any function of the body of humans or animals.

11 (10) "Dispense" means to deliver a controlled substance to an ultimate user or research subject
12 by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering,
13 packaging, labeling or compounding necessary to prepare the substance for that delivery.

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

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

16 (13) "Drug" means:

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

20 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of
21 disease in humans or animals;

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

24 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or
25 (c) of this subsection; however, the term does not include devices or their components, parts or ac-
26 cessories.

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

31 (15) "Manufacture" means the production, preparation, propagation, compounding, conversion
32 or processing of a controlled substance, either directly or indirectly by extraction from substances
33 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
34 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
35 relabeling of its container, except that this term does not include the preparation or compounding
36 of a controlled substance:

37 (a) By a practitioner as an incident to administering or dispensing of a controlled substance in
38 the course of professional practice; or

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

41 (16) "Marijuana":

42 (a) Except as provided in this subsection, means all parts of the plant Cannabis family
43 Moraceae, whether growing or not; the resin extracted from any part of the plant; and every com-
44 pound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin.

45 (b) Does not mean the mature stalks of the plant, fiber produced from the stalks, oil or cake

1 made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or
2 preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the
3 sterilized seed of the plant which is incapable of germination.

4 (c) Does not mean industrial hemp, as defined in ORS 571.300, or industrial hemp commodities
5 or products.

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

8 (18) "Practitioner" means physician, dentist, veterinarian, scientific investigator, certified nurse
9 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law
10 to dispense, conduct research with respect to or to administer a controlled substance in the course
11 of professional practice or research in this state but does not include a pharmacist or a pharmacy.

12 (19) "Prescription" means a written, oral or electronically transmitted direction, given by a
13 practitioner for the preparation and use of a drug. When the context requires, "prescription" also
14 means the drug prepared under such written, oral or electronically transmitted direction. Any label
15 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-
16 nently display a warning that the removal thereof is prohibited by law.

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

19 (21) "Research" means an activity conducted by the person registered with the federal Drug
20 Enforcement Administration pursuant to a protocol approved by the United States Food and Drug
21 Administration.

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

25 **SECTION 54.** ORS 90.396 is amended to read:

26 90.396. (1) Except as provided in subsection (2) of this section, after at least 24 hours' written
27 notice specifying the acts and omissions constituting the cause and specifying the date and time of
28 the termination, the landlord may terminate the rental agreement and take possession as provided
29 in ORS 105.105 to 105.168, if:

30 (a) The tenant, someone in the tenant's control or the tenant's pet seriously threatens to inflict
31 substantial personal injury, or inflicts any substantial personal injury, upon a person on the prem-
32 ises other than the tenant;

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

35 (c) The tenant, someone in the tenant's control or the tenant's pet inflicts any substantial per-
36 sonal injury upon a neighbor living in the immediate vicinity of the premises;

37 (d) The tenant or someone in the tenant's control intentionally inflicts any substantial damage
38 to the premises or the tenant's pet inflicts substantial damage to the premises on more than one
39 occasion;

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

42 (B) The false information was with regard to a criminal conviction of the tenant that would have
43 been material to the landlord's acceptance of the application; and

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

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

9 (A) Prostitution, patronizing a prostitute or promoting prostitution, as described in ORS 167.007,
10 167.008 and 167.012;

11 (B) Manufacture, delivery or possession of a controlled substance, as described in ORS 475.005,
12 but not including[.]

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

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

16 [(iii)] possession of prescription drugs;

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

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

19 (2) If the cause for a termination notice given pursuant to subsection (1) of this section is based
20 upon the acts of the tenant's pet, the tenant may cure the cause and avoid termination of the
21 tenancy by removing the pet from the premises prior to the end of the notice period. The notice
22 must describe the right of the tenant to cure the cause. If the tenant returns the pet to the premises
23 at any time after having cured the violation, the landlord, after at least 24 hours' written notice
24 specifying the subsequent presence of the offending pet, may terminate the rental agreement and
25 take possession as provided in ORS 105.105 to 105.168. The tenant does not have a right to cure this
26 subsequent violation.

27 (3) For purposes of subsection (1) of this section, someone is in the tenant's control if that per-
28 son enters or remains on the premises with the tenant's permission or consent after the tenant
29 reasonably knows or should know of that person's act or likelihood to commit any act of the type
30 described in subsection (1) of this section.

31 (4) An act can be proven to be outrageous in the extreme even if the act is one that does not
32 violate a criminal statute. Notwithstanding the references to criminal statutes in subsection (1)(f)
33 of this section, the landlord's burden of proof in an action for possession under subsection (1) of this
34 section is the civil standard of proof by a preponderance of the evidence.

35 (5) If a good faith effort by a landlord to terminate the tenancy under subsection (1)(f) of this
36 section and to recover possession of the rental unit under ORS 105.105 to 105.168 fails by decision
37 of the court, the landlord may not be found in violation of any state statute or local ordinance re-
38 quiring the landlord to remove that tenant upon threat of fine, abatement or forfeiture as long as
39 the landlord continues to make a good faith effort to terminate the tenancy.

40 **SECTION 55.** ORS 453.858 is amended to read:

41 453.858. As used in ORS 453.855 to 453.912:

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

43 [(2)] (1) "Illegal drug manufacturing site" means any property on which there is a reasonably
44 clear possibility of contamination with chemicals associated with the manufacturing of controlled
45 substances **as defined in ORS 475.005** and:

1 (a) Where activity involving the unauthorized manufacture of a controlled substance listed on
2 Schedules I and II or any precursor chemical for such substances occurs; or

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

5 [(3)] (2) "Property" means any:

6 (a) Real property, improvements on real property or portions of the improvements;

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

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

9 **SECTION 56.** ORS 475.525 is amended to read:

10 475.525. (1) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver
11 or manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used to
12 unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
13 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or other-
14 wise introduce into the human body a controlled substance as defined by ORS 475.005.

15 (2) For the purposes of this section, "drug paraphernalia" means all equipment, products and
16 materials of any kind which are marketed for use or designed for use in planting, propagating, cul-
17 tivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, pre-
18 paring, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting,
19 ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation
20 of ORS 475.752 to 475.980. Drug paraphernalia includes, but is not limited to:

21 (a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating,
22 growing or harvesting of any species of plant which is a controlled substance or from which a con-
23 trolled substance can be derived;

24 (b) Kits marketed for use or designed for use in manufacturing, compounding, converting,
25 producing, processing or preparing controlled substances;

26 (c) Isomerization devices marketed for use or designed for use in increasing the potency of any
27 species of plant which is a controlled substance;

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

30 (e) Scales and balances marketed for use or designed for use in weighing or measuring con-
31 trolled substances;

32 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and
33 lactose, marketed for use or designed for use in cutting controlled substances;

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

36 [(h)] (g) Containers and other objects marketed for use or designed for use in storing or con-
37 cealing controlled substances; and

38 [(i)] (h) Objects marketed for use or designed specifically for use in ingesting, inhaling or oth-
39 erwise introducing [*marijuana,*] cocaine[, *hashish or hashish oil*] into the human body[, *such as:*].

40 [(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, perma-
41 nent screens or hashish heads;]

42 [(B) Water pipes;]

43 [(C) Carburetion tubes and devices;]

44 [(D) Smoking and carburetion masks;]

45 [(E) Roach clips, meaning objects used to hold burning material that has become too small or too

1 *short to be held in the hand, such as a marijuana cigarette;]*

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

3 [(G) *Chamber pipes;*]

4 [(H) *Carburetor pipes;*]

5 [(I) *Electric pipes;*]

6 [(J) *Air-driven pipes;*]

7 [(K) *Chillums;*]

8 [(L) *Bongs;*]

9 [(M) *Ice pipes or chillers; and]*

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

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

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

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

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

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

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

18 (e) The existence and scope of legitimate uses for the object in the community; and

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

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

23 **SECTION 57.** ORS 475.900 is amended to read:

24 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified
25 as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

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

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

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

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

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

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

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

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

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

43 (i) 3,4-methylenedioxyamphetamine;

44 (ii) 3,4-methylenedioxymethamphetamine; or

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

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

5 (A) The delivery was of heroin, cocaine, [*hashish, marijuana,*] methamphetamine, lysergic acid
6 diethylamide, psilocybin or psilocin and was for consideration;

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

8 (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS
9 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous
10 weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly
11 or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a
12 controlled substance offense;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 [*(vii)*] (v) Ten grams or more of a mixture or substance containing a detectable amount of
36 psilocybin or psilocin; or

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

39 (I) 3,4-methylenedioxyamphetamine;

40 (II) 3,4-methylenedioxymethamphetamine; or

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

42 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.858, 475.862, 475.868,
43 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

44 (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists
45 of:

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

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

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

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

8 (a) The violation constitutes delivery of heroin, cocaine, methamphetamine or
9 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or
10 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

11 (b) The violation constitutes possession of:

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

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

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

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

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

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

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

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

26 (i) 3,4-methylenedioxyamphetamine;

27 (ii) 3,4-methylenedioxymethamphetamine; or

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

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

31 (a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commis-
32 sion if the violation involves delivery or manufacture of a controlled substance; or

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

35 (4) In order to prove a commercial drug offense, the state shall plead in the accusatory instru-
36 ment sufficient factors of a commercial drug offense under subsections (1) and (2) of this section.
37 The state has the burden of proving each factor beyond a reasonable doubt.

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

40 **SECTION 58.** ORS 475.908 is amended to read:

41 475.908. (1) A person commits the crime of causing another person to ingest a controlled sub-
42 stance if the person knowingly or intentionally causes the other person to ingest, other than by
43 administering or dispensing, a controlled substance or a controlled substance analog without con-
44 sent of the other person. A person who violates this subsection is guilty of a Class B felony.

45 (2) Notwithstanding subsection (1) of this section, causing another person to ingest a controlled

1 substance is a Class A felony if the person, with the intent of committing or facilitating a crime of
2 violence against the other person, knowingly or intentionally causes the other person to ingest a
3 controlled substance or a controlled substance analog without consent of the other person.

4 (3) For the purposes of this section:

5 (a)(A) Except as provided in subparagraph (B) of this paragraph, “controlled substance analog”
6 means a substance that:

7 (i) Has a chemical structure that is substantially similar to the chemical structure of a con-
8 trolled substance in Schedule I or II.

9 (ii) Has a stimulant, depressant or hallucinogenic effect on the central nervous system that is
10 substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the
11 central nervous system of a controlled substance in Schedule I or II.

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

13 (i) A controlled substance;

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

15 (iii) Any substance exempted under 21 U.S.C. 355 if the ingestion is within the scope of investi-
16 gation authorized under 21 U.S.C. 355; or

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

18 (b) “Crime of violence” means:

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

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

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

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

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

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

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

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

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

29 **SECTION 59.** ORS 475.910 is amended to read:

30 475.910. [(1)] Except as authorized by ORS 475.005 to 475.285 or 475.752 to 475.980, it is unlawful
31 for any person to intentionally apply a controlled substance to the body of another person by in-
32 jection, inhalation, ingestion or any other means if the other person is under 18 years of age. A
33 person who violates this section with respect to:

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

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

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

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

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

43 **SECTION 60.** ORS 475.933 is amended to read:

44 475.933. (1) When a court sentences a person convicted of a crime listed in subsection (2) of this
45 section, the court may not impose a sentence of optional probation or grant a downward disposi-

1 tional departure or a downward durational departure under the rules of the Oregon Criminal Justice
2 Commission if the person has a previous conviction for any of the crimes listed in subsection (2) of
3 this section.

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

5 (a) Manufacture or delivery of a controlled substance[, *other than marijuana,*] under ORS 475.752
6 (1);

7 (b) Creation or delivery of a counterfeit substance[, *other than marijuana,*] under ORS 475.752
8 (2);

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

10 (d) Manufacture or delivery of 3,4-methylenedioxyamphetamine under ORS 475.866, 475.868,
11 475.870 or 475.872;

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

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

14 (g) Manufacture or delivery of a controlled substance within 1,000 feet of a school under ORS
15 475.904;

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

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

19 (3)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have
20 occurred upon the pronouncement in open court of sentence. However, when sentences are imposed
21 for two or more convictions arising out of the same conduct or criminal episode, none of the con-
22 victions is considered to have occurred prior to any of the other convictions arising out of the same
23 conduct or criminal episode.

24 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-
25 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
26 court of the suspended imposition of a sentence.

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

28 (5) As used in this section, "previous conviction" means:

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

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

31 **SECTION 61. ORS 475.059 is repealed.**

32 **SECTION 62. The amendments to ORS 90.396, 453.858, 475.005, 475.525, 475.856, 475.860,**
33 **475.864, 475.900, 475.908, 475.910 and 475.933 by sections 49 to 51 and 53 to 60 of this 2013 Act**
34 **and the repeal of ORS 475.059 by section 61 of this 2013 Act apply to conduct occurring on**
35 **and after the operative date specified in section 63 of this 2013 Act.**

36 **SECTION 63. (1) Sections 1 to 47 of this 2013 Act, the amendments to ORS 90.396, 453.858,**
37 **475.005, 475.525, 475.856, 475.860, 475.864, 475.900, 475.908, 475.910, 475.933 and 571.315 by**
38 **sections 49 to 60 of this 2013 Act and the repeal of ORS 475.059 by section 61 of this 2013 Act**
39 **become operative on July 1, 2014.**

40 **(2) The Oregon Liquor Control Commission may take any action before the operative date**
41 **specified in subsection (1) of this section that is necessary to enable the commission to ex-**
42 **ercise, on and after the operative date specified in subsection (1) of this section, all the du-**
43 **ties, functions and powers conferred on the commission by sections 1 to 47 of this 2013 Act,**
44 **the amendments to ORS 90.396, 453.858, 475.005, 475.525, 475.856, 475.860, 475.864, 475.900,**
45 **475.908, 475.910, 475.933 and 571.315 by sections 49 to 60 of this 2013 Act and the repeal of ORS**

1 475.059 by section 61 of this 2013 Act.

2 **SECTION 64.** The section captions used in this 2013 Act are provided only for the con-
3 venience of the reader and do not become part of the statutory law of this state or express
4 any legislative intent in the enactment of this 2013 Act.

5 **SECTION 65.** This 2013 Act takes effect on the 91st day after the date on which the 2013
6 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

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