

From the Desk of  
Senator Ted Ferrioli

# Senate Bill 162

Sponsored by Senator WHITSETT, Representative WHITSETT (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.

Prohibits marijuana grow sites and licensed producers, processors and sellers of marijuana from being located within 1,000 feet of school. Clarifies, with respect to medical marijuana facilities, type of school to which prohibition against location within 1,000 feet of school applies.

Requires marijuana grow sites and licensed producers, processors and wholesalers of marijuana to keep all marijuana inside fence, barrier or other type of structure that prevents public access.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

### A BILL FOR AN ACT

1  
2 Relating to marijuana; creating new provisions; amending ORS 475.304 and 475.314 and section 18,  
3 chapter 1, Oregon Laws 2015 (Ballot Measure 91 (2014)); and declaring an emergency.

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

### 5 6 PREMISES LICENSED TO PRODUCE, PROCESS 7 AND SELL MARIJUANA FOR RECREATIONAL USE 8

9 **SECTION 1.** Sections 2 and 3 of this 2015 Act are added to and made a part of sections  
10 3 to 70, chapter 1, Oregon Laws 2015 (Ballot Measure 91 (2014)).

11 **SECTION 2.** (1) For purposes of this section, "within 1,000 feet" means a straight line  
12 measurement in a radius extending for 1,000 feet or less in every direction from a specified  
13 location or a point on the boundary line of a specified unit or property.

14 (2) Subject to subsection (3) of this section, the Oregon Liquor Control Commission may  
15 not issue or renew a production license under section 19, chapter 1, Oregon Laws 2015 (Ballot  
16 Measure 91 (2014)), a processor license under section 20, chapter 1, Oregon Laws 2015 (Ballot  
17 Measure 91 (2014)), a wholesale license under section 21, chapter 1, Oregon Laws 2015 (Ballot  
18 Measure 91 (2014)), or a retail license under section 22, chapter 1, Oregon Laws 2015 (Ballot  
19 Measure 91 (2014)), to a person applying for the license or renewal if the premises for which  
20 the license is to be issued or renewed is located within 1,000 feet of:

- 21 (a) A public school for which attendance is compulsory under ORS 339.020;
- 22 (b) A private or parochial elementary or secondary school that teaches children as de-  
23 scribed in ORS 339.030 (1)(a); or
- 24 (c) A career school attended primarily by minors.

25 (3)(a) If a school described in subsection (2) of this section is established within 1,000 feet  
26 of any part of the premises for which a license described in subsection (2) of this section has  
27 been issued, the license remains valid until the date on which the school is first attended by  
28 students.

**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 **SECTION 3.** (1) A person who possesses a production license under section 19, chapter  
 2 1, Oregon Laws 2015 (Ballot Measure 91 (2014)), a processor license under section 20, chapter  
 3 1, Oregon Laws 2015 (Ballot Measure 91 (2014)), or a wholesale license under section 21,  
 4 chapter 1, Oregon Laws 2015 (Ballot Measure 91 (2014)), shall keep all marijuana, marijuana  
 5 extracts and marijuana products inside a fence, barrier or other type of structure that pre-  
 6 vents the public from accessing the marijuana, marijuana extracts or marijuana products.

7 (2) The Oregon Liquor Control Commission shall adopt rules to implement this section.

8 **SECTION 4.** Section 18, chapter 1, Oregon Laws 2015 (Ballot Measure 91 (2014)), is amended  
 9 to read:

10 **Sec. 18.** (1) *[On or before January 4, 2016,]* The Oregon Liquor Control Commission shall *[begin*  
 11 *receiving applications for the licensing of persons]* **approve or deny an application** to produce,  
 12 process[,] and sell marijuana *[within the state]* **under sections 19, 20, 21 and 22, chapter 1, Oregon**  
 13 **Laws 2015 (Ballot Measure 91 (2014)).** Upon *[receipt of a license]* **receiving an** application, the  
 14 commission *[shall]* **may** not unreasonably delay *[the]* processing, *[approval, or rejection of]* **approving**  
 15 **or denying** the application or, if the application is approved, *[the issuance of]* **issuing** the license.

16 (2) The licenses described in sections *[3 to 70 of this Act shall]* **19, 20, 21 and 22, chapter 1,**  
 17 **Oregon Laws 2015 (Ballot Measure 91 (2014)), must** be issued by the commission, subject to *[its*  
 18 *regulations and restrictions and]* the provisions of sections 3 to 70 *[of this Act], chapter 1, Oregon*  
 19 **Laws 2015 (Ballot Measure 91 (2014)), and the rules adopted under sections 3 to 70, chapter**  
 20 **1, Oregon Laws 2015 (Ballot Measure 91 (2014)).**

21 (3) The commission may not license a premises that does not have defined boundaries. **Except**  
 22 **as provided in section 3 of this 2015 Act,** a licensed premises *[need]* **does not need to** be enclosed  
 23 by a wall, fence or other structure, but the commission may require *[that any]* a licensed premises  
 24 be enclosed as a condition of issuing or renewing a license. The commission may not license *[prem-*  
 25 *ises that are]* mobile **premises.**

26  
 27 **REGISTRANTS UNDER THE OREGON**  
 28 **MEDICAL MARIJUANA ACT**  
 29

30 **SECTION 5.** ORS 475.304 is amended to read:

31 475.304. (1)(a) The Oregon Health Authority shall establish by rule a marijuana grow site reg-  
 32 istration system *[to authorize]* **for the** production of marijuana by a registry identification  
 33 cardholder, a designated primary caregiver who grows marijuana for *[the]* **a registry identification**  
 34 cardholder or a person who is responsible for a marijuana grow site.

35 (b) The marijuana grow site registration system *[adopted]* must require a registry identification  
 36 cardholder to submit an application to the authority that includes:

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

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

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

41 *[(d)]* (D) Any other information the authority considers necessary.

42 (c) **The address submitted under paragraph (b)(B) of this subsection may not be located**  
 43 **within 1,000 feet of:**

44 (A) **A public school for which attendance is compulsory under ORS 339.020; or**

45 (B) **A private or parochial school that teaches children as described in ORS 339.030.**

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

3 (3) A person *[who has been issued]* to whom a marijuana grow site registration card **has been**  
4 **issued** under this section must display the *[registration]* card at the marijuana grow site *[at all times*  
5 *when]* **whenever** marijuana is being produced **at the marijuana grow site**.

6 (4) A marijuana grow site registration card must be obtained and *[posted]* **displayed** for each  
7 registry identification cardholder for whom marijuana is being produced at a marijuana grow site.

8 (5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana  
9 for a registry identification cardholder by a person responsible for a marijuana grow site:

10 (a) Are the property of the registry identification cardholder; and

11 (b)(A) Must be provided to the registry identification cardholder~~[,]~~ **upon request; or[,]**

12 (B) If the marijuana is usable marijuana or an immature marijuana plant, transferred to a  
13 medical marijuana facility registered under ORS 475.314~~[,]~~ upon request.

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

16 (b) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the  
17 manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued  
18 a marijuana grow site registration card or produce marijuana for a registry identification cardholder  
19 for five years from the date of conviction.

20 (c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to  
21 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may  
22 not be issued a marijuana grow site registration card or produce marijuana for a registry identifi-  
23 cation cardholder.

24 (7) A registry identification cardholder or the designated primary caregiver of *[the]* **a registry**  
25 **identification** cardholder may reimburse the person responsible for a marijuana grow site for the  
26 costs of supplies and utilities associated with the production of marijuana for the registry identifi-  
27 cation cardholder. No other costs associated with the production of marijuana for the registry  
28 identification cardholder, including the cost of labor, may be reimbursed.

29 (8) The authority may adopt rules *[imposing]* **establishing** a fee *[in an amount established by the*  
30 *authority for registration of a marijuana grow site under this section]* **for registering a marijuana**  
31 **grow site**.

32 **SECTION 6.** ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended  
33 to read:

34 475.314. *[(1) The Oregon Health Authority shall establish by rule a medical marijuana facility*  
35 *registration system to authorize the transfer of usable marijuana and immature marijuana plants*  
36 *from:]*

37 *[(a) A registry identification cardholder, the designated primary caregiver of a registry identifica-*  
38 *tion cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility;*  
39 *or]*

40 *[(b) A medical marijuana facility to a registry identification cardholder or the designated primary*  
41 *caregiver of a registry identification cardholder.]*

42 **(1) The Oregon Health Authority shall establish by rule a system for registering medical**  
43 **marijuana facilities that transfer usable marijuana and immature marijuana plants to regis-**  
44 **try identification cardholders and designated primary caregivers.**

45 (2) The registration system established under subsection (1) of this section must require an ap-

1 **plicant for** a medical marijuana facility to submit an application to the authority that includes:

2 (a) The name of the person **or persons** responsible for the medical marijuana facility;

3 (b) The address of the medical marijuana facility;

4 (c) Proof that *[the]* **each** person responsible for the medical marijuana facility is a resident of

5 *[Oregon]* **this state**;

6 (d) Documentation, as required by the authority by rule, that demonstrates the medical

7 marijuana facility meets the *[qualifications for a medical marijuana facility as described in]* **re-**

8 **quirements under** subsection (3) of this section; and

9 (e) Any other information that the authority considers necessary.

10 (3) To qualify for registration under this section, a medical marijuana facility:

11 (a) **Must** be located in an area that is zoned for commercial, industrial or mixed use or as ag-

12 ricultural land;

13 (b) **May not** be located at the same address as a marijuana grow site;

14 (c) **Must** be registered as a business, or have filed *[a pending]* **an** application to register as a

15 business, with the Office of the Secretary of State;

16 *[(d) Must not be located within 1,000 feet of the real property comprising a public or private ele-*

17 *mentary, secondary or career school attended primarily by minors;]*

18 **(d) May not be located within 1,000 feet of:**

19 **(A) A public school for which attendance is compulsory under ORS 339.020; or**

20 **(B) A private or parochial school that teaches children as described in ORS 339.030;**

21 (e) *[Must]* **May not** be located within 1,000 feet of another medical marijuana facility; and

22 (f) **Must** comport with rules adopted by the authority related to:

23 (A) Installing a minimum security system, *including a* **that includes** video surveillance

24 *[system], an alarm system and a safe;* and

25 (B) Testing for pesticides, mold and mildew and the processes by which usable marijuana and

26 immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the

27 registry identification cardholder, the **registry identification** cardholder's designated primary

28 caregiver or the **registry identification** cardholder's registered grower.

29 (4)(a) The authority shall conduct a criminal records check under ORS 181.534 *[of a person*

30 *whose name is submitted as the person responsible for a medical marijuana facility under subsection*

31 *(2) of this section]* **for each individual named in an application under subsection (2) of this**

32 **section.**

33 (b) *[A person]* **An individual** convicted for the manufacture or delivery of a controlled substance

34 in Schedule I or Schedule II may not be *[the person]* responsible for a medical marijuana facility for

35 five years from the date the *[person]* **individual** is convicted.

36 (c) *[A person]* **An individual** convicted more than once for the manufacture or delivery of a

37 controlled substance in Schedule I or Schedule II may not be *[the person]* responsible for a medical

38 marijuana facility.

39 (5) If a person submits the application required under subsection (2) of this section, the medical

40 marijuana facility identified in the application meets the *[qualifications for a medical marijuana fa-*

41 *cility described in]* **requirements under** subsection (3) of this section and *[the person responsible for*

42 *the medical marijuana facility]* **each individual named in the application** passes the criminal re-

43 cords check required under subsection (4) of this section, the authority shall register the medical

44 marijuana facility and issue *[the person responsible for the medical marijuana facility]* proof of reg-

45 istration. *[The person responsible for the medical marijuana facility shall display the]* Proof of regis-

1 tration **must be displayed** on the premises of the medical marijuana facility at all times when  
2 usable marijuana or immature marijuana plants are being transferred as described in subsection (1)  
3 of this section.

4 (6)(a) A registered medical marijuana facility may receive usable marijuana or immature  
5 marijuana plants only from a registry identification cardholder, designated primary caregiver or  
6 person responsible for a marijuana grow site if the registered medical marijuana facility obtains  
7 authorization, on a form prescribed by the authority by rule and signed by a registry identification  
8 cardholder, to receive the usable marijuana or immature marijuana plants.

9 (b) A registered medical marijuana facility shall maintain:

10 (A) A copy of each authorization form described in paragraph (a) of this subsection; and

11 (B) Documentation of each transfer of usable marijuana or immature marijuana plants.

12 (7) A **registered** medical marijuana facility [*registered under this section*] may possess usable  
13 marijuana and immature marijuana plants in excess of the limits imposed on registry identification  
14 cardholders and designated primary caregivers under ORS 475.320.

15 (8)(a) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused  
16 product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant  
17 safety packaging that meets standards established by the authority by rule.

18 (b) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused  
19 product that is manufactured or packaged in a manner that is attractive to minors, as determined  
20 by the authority by rule.

21 (9) The authority may inspect:

22 (a) The premises of an applicant for a medical marijuana facility or a registered medical  
23 marijuana facility to ensure compliance with the [*qualifications for a medical marijuana facility de-*  
24 *scribed in*] **requirements under** subsection (3) of this section; and

25 (b) The records of a registered medical marijuana facility to ensure compliance with subsection  
26 (6)(b) of this section.

27 (10)(a) A registry identification cardholder or the designated primary caregiver of a registry  
28 identification cardholder may reimburse a **registered** medical marijuana facility [*registered under*  
29 *this section*] for the normal and customary costs of doing business, including costs related to trans-  
30 ferring, handling, securing, insuring, testing, packaging and processing usable marijuana and imma-  
31 ture marijuana plants and the cost of supplies, utilities and rent or mortgage.

32 (b) A **registered** medical marijuana facility may reimburse a person responsible for a marijuana  
33 grow site under this section for the normal and customary costs of doing business, including costs  
34 related to transferring, handling, securing, insuring, testing, packaging and processing usable  
35 marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

36 (11) **Subject to the provisions of ORS chapter 183**, the authority may revoke the registration  
37 of a medical marijuana facility [*registered under this section*] for failure to comply with ORS 475.300  
38 to 475.346, rules adopted under ORS 475.300 to 475.346 or ordinances adopted pursuant to section  
39 2, chapter 79, Oregon Laws 2014. The authority may release to the public a final order revoking a  
40 medical marijuana facility registration.

41 (12) The authority shall adopt rules to implement this section, including rules that:

42 (a) Require a **registered** medical marijuana facility [*registered under this section*] to annually  
43 renew [*that*] **the registration for that facility**; and

44 (b) Establish fees for registering and renewing registration for a medical marijuana facility un-  
45 der this section.

1 **SECTION 7.** Sections 8 and 9 of this 2015 Act are added to and made a part of ORS 475.300  
 2 to 475.346.

3 **SECTION 8.** If a school described in ORS 475.304 (1)(c) or 475.314 (3)(d) is established  
 4 within 1,000 feet of a marijuana grow site or a medical marijuana facility registered under  
 5 ORS 475.314, the marijuana grow site or medical marijuana facility may remain at its current  
 6 location until the date after the school is first attended by students on which the registration  
 7 is due for renewal.

8 **SECTION 9.** (1) A person responsible for a marijuana grow site shall keep all marijuana  
 9 produced at the marijuana grow site inside a fence, barrier or other type of structure that  
 10 prevents the public from accessing the marijuana.

11 (2) The Oregon Health Authority shall adopt rules to implement this section.

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 13 **APPLICABILITY**

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 15 **SECTION 10.** (1) Section 2 of this 2015 Act applies to applications for issuance or renewal  
 16 of a production license under section 19, chapter 1, Oregon Laws 2015 (Ballot Measure 91  
 17 (2014)), a processor license under section 20, chapter 1, Oregon Laws 2015 (Ballot Measure  
 18 91 (2014)), a wholesale license under section 21, chapter 1, Oregon Laws 2015 (Ballot Measure  
 19 91 (2014)), or a retail license under section 22, chapter 1, Oregon Laws 2015 (Ballot Measure  
 20 91 (2014)), received by the Oregon Liquor Control Commission on or after the operative date  
 21 specified in section 11 of this 2015 Act.

22 (2) The amendments to ORS 475.304 by section 5 of this 2015 Act apply to applications  
 23 received by the Oregon Health Authority for registration of a marijuana grow site on or after  
 24 the operative date specified in section 11 of this 2015 Act.

25 (3) The amendments to ORS 475.314 by section 6 of this 2015 Act apply to:

26 (a) Applications for registration of a medical marijuana facility received by the Oregon  
 27 Health Authority on or after the operative date specified in section 11 of this 2015 Act;

28 (b) Applications for renewal of the registration of a medical marijuana facility received  
 29 by the authority on or after the operative date specified in section 11 of this 2015 Act; and

30 (c) Medical marijuana facility registrations updated by the authority on or after the op-  
 31 erative date specified in section 11 of this 2015 Act.

32  
 33 **OPERATIVE DATE**

34  
 35 **SECTION 11.** (1) Sections 1 to 3 and 7 to 9 of this 2015 Act and the amendments to ORS  
 36 475.304 and 475.314 and section 18, chapter 1, Oregon Laws 2015 (Ballot Measure 91 (2014)),  
 37 by sections 4, 5 and 6 of this 2015 Act become operative on January 1, 2016.

38 (2) The Oregon Liquor Control Commission and the Oregon Health Authority may take  
 39 any action before the operative date specified in subsection (1) of this section that is neces-  
 40 sary to enable the commission and authority to exercise, on and after the operative date  
 41 specified in subsection (1) of this section, all the duties, functions and powers conferred on  
 42 the commission and authority by sections 1 to 3 and 7 to 9 of this 2015 Act and the amend-  
 43 ments to ORS 475.304 and 475.314 and section 18, chapter 1, Oregon Laws 2015 (Ballot Meas-  
 44 ure 91 (2014)), by sections 4, 5 and 6 of this 2015 Act.

UNIT CAPTIONS

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**SECTION 12.** The unit captions used in this 2015 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2015 Act.

EMERGENCY CLAUSE

**SECTION 13.** This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

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