

House Bill 2040

Sponsored by Representative SMITH (Presession filed.)

SUMMARY

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

Prohibits medical marijuana facilities and licensed producers, processors and sellers of marijuana from being located within one mile of school.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to marijuana; creating new provisions; amending ORS 475.314; and declaring an emergency.

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

PREMISES LICENSED TO PRODUCE, PROCESS AND SELL MARIJUANA FOR RECREATIONAL USE

SECTION 1. Section 2 of this 2015 Act is added to and made a part of sections 3 to 70, chapter _____, Oregon Laws 2015 (Ballot Measure 91 (2014)).

SECTION 2. (1) Subject to subsection (2) of this section, the Oregon Liquor Control Commission may not issue or renew a production license under section 19, chapter _____, Oregon Laws 2015 (Ballot Measure 91 (2014)), a processor license under section 20, chapter _____, Oregon Laws 2015 (Ballot Measure 91 (2014)), a wholesale license under section 21, chapter _____, Oregon Laws 2015 (Ballot Measure 91 (2014)), or a retail license under section 22, chapter _____, Oregon Laws 2015 (Ballot Measure 91 (2014)), to a person applying for the license renewal if any part of the premises for which the license is to be issued or renewed is located within one mile of:

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

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

(2) If a school described in subsection (1) of this section is established within one mile of any part of the premises for which a license described in subsection (1) of this section has been issued, the license remains valid until the date after the school is first attended by students on which the license is due for renewal.

FACILITIES REGISTERED UNDER THE OREGON MEDICAL MARIJUANA ACT

SECTION 3. ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended to read:

475.314. [(1) *The Oregon Health Authority shall establish by rule a medical marijuana facility*

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 registration system to authorize the transfer of usable marijuana and immature marijuana plants
2 from:]

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

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

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

11 (2) The registration system established under subsection (1) of this section must require **an ap-**
12 **plicant for** a medical marijuana facility to submit an application to the authority that includes:

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

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

15 (c) Proof that *[the]* **each** person responsible for the medical marijuana facility is a resident of
16 *[Oregon]* **this state;**

17 (d) Documentation, as required by the authority by rule, that demonstrates the medical
18 marijuana facility meets the *[qualifications for a medical marijuana facility as described in]* **re-**
19 **quirements under** subsection (3) of this section; and

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

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

22 (a) Must be located in an area that is zoned for commercial, industrial or mixed use or as ag-
23 ricultural land;

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

25 (c) Must be registered as a business, or have filed *[a pending]* **an** application to register as a
26 business, with the Office of the Secretary of State;

27 *[(d) Must not be located within 1,000 feet of the real property comprising a public or private ele-*
28 *mentary, secondary or career school attended primarily by minors;]*

29 **(d) May not be located within one mile of:**

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

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

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

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

34 (A) Installing a minimum security system, *[including a]* **that includes** video surveillance
35 *[system], an* alarm system and **a** safe; and

36 (B) Testing for pesticides, mold and mildew and the processes by which usable marijuana and
37 immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the
38 registry identification cardholder, the **registry identification** cardholder's designated primary
39 caregiver or the **registry identification** cardholder's registered grower.

40 (4)(a) The authority shall conduct a criminal records check under ORS 181.534 *[of a person*
41 *whose name is submitted as the person responsible for a medical marijuana facility under subsection*
42 *(2) of this section]* **for each individual named in an application under subsection (2) of this**
43 **section.**

44 (b) *[A person]* **An individual** convicted for the manufacture or delivery of a controlled substance
45 in Schedule I or Schedule II may not be *[the person]* responsible for a medical marijuana facility for

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

2 (c) *[A person]* **An individual** convicted more than once for the manufacture or delivery of a
3 controlled substance in Schedule I or Schedule II may not be *[the person]* responsible for a medical
4 marijuana facility.

5 (5) If a person submits the application required under subsection (2) of this section, the medical
6 marijuana facility identified in the application meets the *[qualifications for a medical marijuana fa-*
7 *cility described in]* **requirements under** subsection (3) of this section and *[the person responsible for*
8 *the medical marijuana facility]* **each individual named in the application** passes the criminal re-
9 cords check required under subsection (4) of this section, the authority shall register the medical
10 marijuana facility and issue *[the person responsible for the medical marijuana facility]* proof of reg-
11 istration. *[The person responsible for the medical marijuana facility shall display the]* Proof of regis-
12 tration **must be displayed** on the premises of the medical marijuana facility at all times when
13 usable marijuana or immature marijuana plants are being transferred as described in subsection (1)
14 of this section.

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

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

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

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

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

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

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

32 (9) The authority may inspect:

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

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

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

43 (b) A **registered** medical marijuana facility may reimburse a person responsible for a marijuana
44 grow site under this section for the normal and customary costs of doing business, including costs
45 related to transferring, handling, securing, insuring, testing, packaging and processing usable

1 marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

2 (11) **Subject to the provisions of ORS chapter 183**, the authority may revoke the registration
 3 of a medical marijuana facility [*registered under this section*] for failure to comply with ORS 475.300
 4 to 475.346, rules adopted under ORS 475.300 to 475.346 or ordinances adopted pursuant to section
 5 2, chapter 79, Oregon Laws 2014. The authority may release to the public a final order revoking a
 6 medical marijuana facility registration.

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

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

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

12 **SECTION 4. Section 5 of this 2015 Act is added to and made a part of ORS 475.300 to**
 13 **475.346.**

14 **SECTION 5. If a school described in ORS 475.314 (3)(d) is established within one mile of**
 15 **a medical marijuana facility registered under ORS 475.314, the medical marijuana facility may**
 16 **remain at its current location until the date after the school is first attended by students**
 17 **on which the registration is due for renewal.**

18
 19 **APPLICABILITY**

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 21 **SECTION 6. (1) Section 2 of this 2015 Act applies to applications for issuance or renewal**
 22 **of a production license under section 19, chapter _____, Oregon Laws 2015 (Ballot Measure**
 23 **91 (2014)), a processor license under section 20, chapter _____, Oregon Laws 2015 (Ballot**
 24 **Measure 91 (2014)), a wholesale license under section 21, chapter _____, Oregon Laws 2015**
 25 **(Ballot Measure 91 (2014)), or a retail license under section 22, chapter _____, Oregon Laws**
 26 **2015 (Ballot Measure 91 (2014)), received by the Oregon Liquor Control Commission on or**
 27 **after the operative date specified in section 7 of this 2015 Act.**

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

29 (a) Applications for registration of a medical marijuana facility received by the Oregon
 30 Health Authority on or after the operative date specified in section 7 of this 2015 Act;

31 (b) Applications for renewal of the registration of a medical marijuana facility received
 32 by the authority on or after the operative date specified in section 7 of this 2015 Act; and

33 (c) Medical marijuana facility registrations updated by the authority on or after the op-
 34 erative date specified in section 7 of this 2015 Act.

35
 36 **OPERATIVE DATE**

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 38 **SECTION 7. (1) Sections 1, 2 and 5 of this 2015 Act and the amendments to ORS 475.314**
 39 **by section 3 of this 2015 Act become operative on January 1, 2016.**

40 (2) The Oregon Liquor Control Commission and the Oregon Health Authority may take
 41 any action before the operative date specified in subsection (1) of this section that is neces-
 42 sary to enable the commission and authority to exercise, on and after the operative date
 43 specified in subsection (1) of this section, all the duties, functions and powers conferred on
 44 the commission and authority by sections 1, 2 and 5 of this 2015 Act and the amendments
 45 to ORS 475.314 by section 3 of this 2015 Act.

UNIT CAPTIONS

SECTION 8. 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 9. 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.
