

Enrolled
House Bill 2041

Sponsored by Representatives SMITH, LININGER (Pre-session filed.)

CHAPTER

AN ACT

Relating to marijuana; creating new provisions; amending ORS 305.140, 305.895, 305.992 and 316.680 and sections 44 and 69, chapter 1, Oregon Laws 2015; repealing sections 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 71, chapter 1, Oregon Laws 2015; and prescribing an effective date.

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

TAX

SECTION 1. As used in sections 1 to 13 of this 2015 Act:

(1) "Cannabinoid concentrate," "cannabinoid edible," "cannabinoid extract," "cannabinoid product," "consumer," "immature marijuana plant," "marijuana flowers," "marijuana items," "marijuana leaves" and "marijuana retailer" have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

(2) "Retail sale" means any transfer, exchange, gift or barter of a marijuana item by any person to a consumer.

(3) "Retail sales price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

SECTION 2. (1) A tax is hereby imposed upon the retail sale of marijuana items in this state. The tax imposed by this section is a direct tax on the consumer, for which payment upon retail sale is required to achieve convenience and facility in the collection and administration of the tax. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs.

(2) The tax imposed under this section shall be imposed at the rate of:

- (a) 17 percent of the retail sales price of marijuana leaves;**
- (b) 17 percent of the retail sales price of marijuana flowers;**
- (c) 17 percent of the retail sales price of immature marijuana plants;**
- (d) 17 percent of the retail sales price of a cannabinoid edible;**
- (e) 17 percent of the retail sales price of a cannabinoid concentrate;**
- (f) 17 percent of the retail sales price of a cannabinoid extract;**
- (g) 17 percent of the retail sales price of a cannabinoid product that is intended to be used by applying the cannabinoid product to the skin or hair; and**
- (h) 17 percent of the retail sales price of cannabinoid products other than those described in paragraph (g) of this subsection.**

(3) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.

(4) The amount of the tax shall be separately stated on an invoice, receipt or other similar document that the marijuana retailer provides to the consumer, or shall be otherwise disclosed to the consumer.

(5) A person may not knowingly sell, purchase, install, transfer or possess software programs or other electronic devices intended to hide or to remove records of retail sales of marijuana items or to falsify records of retail sales of marijuana items.

SECTION 3. (1) Except as otherwise provided in sections 1 to 13 of this 2015 Act, the tax imposed upon the consumer under section 2 of this 2015 Act shall be collected at the point of sale and remitted by each marijuana retailer that engages in the retail sale of marijuana items. The tax is considered a tax upon the marijuana retailer that is required to collect the tax, and the marijuana retailer is considered a taxpayer.

(2) The marijuana retailer shall submit a return to the Department of Revenue on or before the last day of January, April, July and October of each year for the previous calendar quarter.

(3) The marijuana retailer shall pay the tax to the department in the form and manner prescribed by the department, but not later than with each quarterly return, without regard to extensions under subsection (5) of this section.

(4) Marijuana retailers shall file the returns required under this section regardless of whether any tax is owed.

(5) The department for good cause may extend the time for making any return under this section. The extension may be granted at any time if a written request is filed with the department during or prior to the period for which the extension may be granted. The department may not grant an extension of more than 30 days.

(6) Interest shall be added at the rate established under ORS 305.220 for each month, or fraction of a month, from the time the return was originally required to be filed to the time of payment.

(7) Except as provided in subsections (8) and (9) of this section, the period prescribed for the department to allow or make a refund of any overpayment of tax paid under sections 1 to 13 of this 2015 Act shall be as provided in ORS 314.415.

(8)(a) The department shall first apply any overpayment of tax to any marijuana tax that is then owed.

(b) If after any offset against any delinquent amount the overpayment of tax remains greater than \$1,000, the entire refund shall be applied as a credit against the next subsequent calendar quarter as an estimated payment.

(9) The department may not make a refund of, or credit, any overpayment of tax under sections 1 to 13 of this 2015 Act that was credited to the account of a marijuana retailer under subsection (8)(b) of this section if the return for that tax period is not filed within three years after the due date of that return.

SECTION 4. (1) Every person who collects any amount under section 3 of this 2015 Act shall hold the same in trust for the State of Oregon and for the payment thereof to the Department of Revenue in the manner and at the time provided in section 3 of this 2015 Act.

(2) At any time a marijuana retailer fails to remit any amount collected, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. The warrant shall be issued, recorded and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

(3)(a) In the case of a marijuana retailer that is assessed pursuant to the provisions of ORS 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer, employee or member of the marijuana retailer within three years from the time of assessment. Within 30 days from the date the notice of liability is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and

interest, or advise the department in writing of objections to the liability and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of liability within 30 days after the notice of liability was mailed, the notice of liability becomes final. In that event, the officer, employee or member may appeal the notice of liability to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(4)(a) In the case of a failure to file a return on the due date, governed by the provisions of ORS 305.265 (10) and 314.400, the department, in addition to any action described in the provisions of ORS 305.265 (10) and 314.400, may send notices of determination and assessment to any officer, employee or member any time within three years after the assessment. The time of assessment against the officer, employee or member is 30 days after the date the notice of determination and assessment is mailed. Within 30 days from the date the notice of determination and assessment is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the assessment and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of determination and assessment within 30 days after the notice of determination and assessment was mailed, the notice of determination and assessment becomes final. In that event, the officer, employee or member may appeal the notice of determination and assessment to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(5)(a) More than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes.

(b) Notwithstanding the confidentiality provisions of section 10 of this 2015 Act, if more than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes, the department may require any or all of the officers, members or employees who may be held liable to appear before the department for a joint determination of liability. The department shall notify each officer, member or employee of the time and place set for the determination of liability.

(c) Each person notified of a joint determination under this subsection shall appear and present such information as is necessary to establish that person's liability or nonliability for payment of taxes to the department. If a person who was notified fails to appear, the department shall make its determination on the basis of all the information and evidence presented. The department's determination is binding on all persons notified and required to appear under this subsection.

(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to section 10 of this 2015 Act by any person determined to be liable for unpaid taxes under this subsection, each person required to appear before the department under this subsection shall be impleaded by the plaintiff. The department may implead any officer, employee or member who may be held jointly and severally liable for the payment of taxes. Each person impleaded under this paragraph shall be made a party to the action before the tax court and shall make available to the tax court the information that was presented before the department, as well as other information that may be presented to the court.

(B) The court may determine that one or more persons impleaded under this paragraph are liable for unpaid taxes without regard to any earlier determination by the department that an impleaded person was not liable for unpaid taxes.

(C) If a person required to appear before the court under this subsection fails or refuses to appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court, the court shall make its determination on the basis of all the evidence introduced. Notwithstanding section 10 of this 2015 Act, the evidence constitutes a public record and shall be available to the parties and the court. The determination of the tax court is binding on all persons made parties to the action under this subsection.

(e) This section may not be construed to preclude a determination by the department or the Oregon Tax Court that more than one officer, employee or member are jointly and severally liable for unpaid taxes.

SECTION 5. (1) A marijuana retailer shall keep receipts, invoices and other pertinent records related to retail sales of marijuana items in the form required by the Department of Revenue. Each record shall be preserved for five years from the time to which the record relates, or for as long as the marijuana retailer retains the marijuana items to which the record relates, whichever is later. During the retention period and at any time prior to the destruction of records, the department may give written notice to the marijuana retailer not to destroy records described in the notice without written permission of the department. Notwithstanding any other provision of law, the department shall preserve reports and returns filed with the department for at least five years.

(2) The department or its authorized representative, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of marijuana items and any other investigations as the department deems necessary to carry out the provisions of sections 1 to 13 of this 2015 Act.

SECTION 6. (1) The Department of Revenue has authority, by order or subpoena to be served with the same force and effect and in the same manner as a subpoena is served in a civil action in the circuit court, or the Oregon Tax Court, to require the production at any time and place the department designates of any books, papers, accounts or other information necessary to carry out sections 1 to 13 of this 2015 Act. The department may require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for the information, with power to administer oaths to the person.

(2) If a person fails to comply with a subpoena or order of the department or to produce or permit the examination or inspection of any books, papers, records and equipment pertinent to an investigation or inquiry under sections 1 to 13 of this 2015 Act, or to testify to any matter regarding which the person is lawfully interrogated, the department may apply to the Oregon Tax Court or to the circuit court of the county in which the person resides or where the person is for an order to the person to attend and testify, or otherwise to comply with the demand or request of the department. The department shall apply to the court by ex parte motion, upon which the court shall make an order requiring the person against whom the motion is directed to comply with the request or demand of the department within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order shall be served upon the person to whom it is directed in the manner required by this state for service of process, which

service is required to confer jurisdiction upon the court. Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, existing under the tax laws or other laws of this state.

SECTION 7. (1) Notwithstanding the confidentiality provisions of section 10 of this 2015 Act, the Department of Revenue may disclose information received under sections 1 to 13 and 19 of this 2015 Act to the Oregon Liquor Control Commission to carry out the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act.

(2) The commission may disclose information obtained pursuant to sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act to the department for the purpose of carrying out the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act.

(3) Except as otherwise provided in sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act, a person aggrieved by an act or determination of the department or its authorized agent under sections 1 to 13 and 19 of this 2015 Act may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person's liability for the tax imposed under sections 1 to 13 of this 2015 Act.

SECTION 8. (1) The Department of Revenue shall administer and enforce sections 1 to 13 of this 2015 Act. The department is authorized to establish rules and procedures for the implementation and enforcement of sections 1 to 13 of this 2015 Act that are consistent with sections 1 to 13 of this 2015 Act and that the department considers necessary and appropriate to administer and enforce sections 1 to 13 of this 2015 Act.

(2) The Oregon Liquor Control Commission shall enter into an agreement with the department for the purpose of administering and enforcing those provisions of sections 1 to 13 of this 2015 Act, and rules or procedures established for the purpose of implementing and enforcing sections 1 to 13 of this 2015 Act, that the commission and the department determine are necessary for the effective and efficient administration, implementation and enforcement of sections 1 to 13 of this 2015 Act.

SECTION 9. (1)(a) When an amount represented by a marijuana retailer at retail to a consumer as constituting the tax imposed under sections 1 to 13 of this 2015 Act is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the consumer to the marijuana retailer, the excess tax paid shall be returned by the marijuana retailer to the consumer upon written notification by the Department of Revenue or the consumer.

(b) The written notification must contain information necessary to determine the validity of the consumer's claim.

(2) If the marijuana retailer does not return the excess tax within 60 days after mailing of the written notification required under subsection (1) of this section, the consumer may appeal to the department for a refund of the amount of the excess tax, in the manner and within the time allowed under rules adopted by the department.

(3) If excess tax is returned to the consumer by the department, the department may issue a notice of deficiency for the excess tax to the marijuana retailer in the manner provided under ORS 305.265.

SECTION 10. Except as otherwise provided in sections 1 to 13 of this 2015 Act or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto, apply to the determinations of taxes, penalties and interest under sections 1 to 13 of this 2015 Act.

SECTION 11. (1) All moneys received by the Department of Revenue under sections 1 to 13 and 21a of this 2015 Act shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of sections 1 to 13 and 21a of this 2015 Act out of moneys received from the tax imposed under section 2 of this 2015 Act. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the department shall credit the balance of the moneys received by the department under this section to the Oregon Marijuana Account established under section 44, chapter 1, Oregon Laws 2015.

NOTE: Section 12 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 13. For the purpose of compensating marijuana retailers for expenses incurred in collecting the tax imposed under section 2 of this 2015 Act, each marijuana retailer is permitted to deduct and retain two percent of the amount of taxes that are collected by the marijuana retailer from all retail sales of marijuana items conducted by the marijuana retailer.

OTHER AMENDMENTS

SECTION 14. Section 44, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 44. (1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.

(2) **The account shall consist of moneys transferred to the account under section 11 of this 2015 Act.**

[2] (3) [At the end of each month, the Oregon Liquor Control Commission] **Subject to subsection (4) of this section, the Department of Revenue** shall certify the amount of moneys available for distribution in the Oregon Marijuana Account and[, after withholding such moneys as it may deem necessary to carry out its obligations under sections 3 to 70 of this Act, shall within 35 days of the month for which a distribution is made] distribute the moneys as follows:

(a) Forty percent [shall] **must** be transferred to the Common School Fund;

(b) Twenty percent [shall] **must** be transferred to the Mental Health Alcoholism and Drug Services Account established under ORS 430.380;

(c) Fifteen percent [shall] **must** be transferred to the State Police Account established under ORS 181.175;

(d) To assist local law enforcement in performing its duties under [this Act, ten percent shall] **sections 3 to 70, chapter 1, Oregon Laws 2015, 10 percent must** be transferred to the cities of [the] **this** state in the following shares:

(A) For all distributions made from the Oregon Marijuana Account before July 1, 2017, in such shares as the population of each city bears to the population of the cities of [the] **this** state, as determined by [the State Board of Higher Education] **Portland State University** last preceding such apportionment, under ORS 190.510 to 190.610; and

(B) For all distributions made from the Oregon Marijuana Account on or after July 1, 2017:

(i) Fifty percent of [such ten] **the 10 percent [shall] must** be transferred in such shares as the number of licenses issued by the commission under sections 19 to 21, **chapter 1, Oregon Laws 2015, [of this Act]** during the calendar year preceding the date of the distribution for premises located in each city bears to the number of such licenses issued by the commission during such calendar year for all premises in [the] **this** state; and

(ii) Fifty percent of [such ten] **the 10 percent [shall] must** be transferred in such shares as the number of licenses issued by the commission under section 22, **chapter 1, Oregon Laws 2015, [of this Act]** during the calendar year preceding the date of the distribution for premises located in each

city bears to the number of such licenses issued by the commission during such calendar year for all premises in *[the]* **this** state;

(e) To assist local law enforcement in performing its duties under *[this Act, ten percent shall]* **sections 3 to 70, chapter 1, Oregon Laws 2015, 10 percent must** be transferred to counties in the following shares:

(A) For all distributions made from the Oregon Marijuana Account before July 1, 2017, in such shares as their respective populations bear to the total population of *[the]* **this** state, as estimated from time to time by *[the State Board of Higher Education]* **Portland State University**; and

(B) For all distributions made from the Oregon Marijuana Account on or after July 1, 2017:

(i) Fifty percent of *[such ten]* **the 10 percent [shall] must** be transferred in such shares as the number of licenses issued by the commission under sections 19 to 21, **chapter 1, Oregon Laws 2015, [of this Act]** during the calendar year preceding the date of the distribution for premises located in each county bears to the number of such licenses issued by the commission during such calendar year for all premises in *[the]* **this** state; and

(ii) Fifty percent of *[such ten]* **the 10 percent [shall] must** be transferred in such shares as the number of licenses issued by the commission under section 22, **chapter 1, Oregon Laws 2015, [of this Act]** during the calendar year preceding the date of the distribution for premises located in each county bears to the number of such licenses issued by the commission during such calendar year for all premises in *[the]* **this** state; and

(f) Five percent *[shall] must* be transferred to the Oregon Health Authority to be used for the establishment, operation[,] and maintenance of alcohol and drug abuse prevention, early intervention and treatment services.

(4) A city or county that adopts ordinances prohibiting the establishment of a premises for which a license is issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, or prohibiting the establishment of an entity for which registration is required under ORS 475.300 to 475.346, is not eligible to receive distributions under this section.

[(3)] **(5)** It is the intent of *[this section]* **the Legislative Assembly** that the moneys distributed from the Oregon Marijuana Account to the *[distributees]* **persons listed** in subsection *[(2)]* **(3)** of this section are in addition to, **and not in lieu of**, any other *[available]* moneys **available** to such *[distributees and do not supplant moneys available from any other source]* **persons.**

SECTION 15. ORS 305.140 is amended to read:

305.140. (1) Any person having an interest in or lien upon any real property may request the Department of Revenue in writing to release such real property from a cloud on the title of or lien on such property existing, created or continued under any one or more of the following:

(a) A warrant provided for in ORS 314.430, 321.570 or 323.610 **or section 4 of this 2015 Act**; or

(b) The provisions of ORS 311.673, 311.679, 311.689, 311.711 or 311.771.

(2) If, upon a request under subsection (1) of this section, the department finds that a sale of such real property would not result in satisfaction in whole or in part of the taxes due, it shall execute a release of such cloud or lien upon such property, and such release shall be conclusive evidence of the removal and extinguishment of such cloud or lien in respect of such real property.

(3) In addition to the release of cloud or lien provided for in subsection (1) of this section, the department may execute releases on part or all of any real property in the following cases, which releases shall be conclusive evidence of the removal and extinguishment of such cloud or lien:

(a) If the department finds that liability for the amount assessed, together with all interest thereon and penalties and costs in respect thereof, has been satisfied;

(b) If the department finds that the fair market value of that part of the property remaining subject to the cloud or lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon the property;

(c) If there is supplied to the department either an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or a bond, in such form and with such surety as the

department considers sufficient, conditioned upon the payment of the amount of the warrant, together with all interest in respect thereof, within 60 days after the issuance of the release; or

(d) If there is paid to the department in partial satisfaction of the amount of the warrant provided for in ORS 314.430, 321.570 or 323.610 **or section 4 of this 2015 Act** or the amount of any lien under ORS 311.673, 311.679, 311.689, 311.711 or 311.771, an amount not less than the value, as determined by the department, of the lien of the State of Oregon upon the part of the property so to be released. In determining such value the department shall give consideration to the fair market value of the part of the property so to be released and to such liens thereon as have priority to the lien of the State of Oregon.

SECTION 16. ORS 305.895 is amended to read:

305.895. (1) Except as provided in ORS 314.440 or other jeopardy assessment procedure, the Department of Revenue shall take no action against a taxpayer's or transferee's real or personal property before issuing a warrant for the collection of tax or an amount payable by a transferee under ORS 311.695 as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190 **and section 4 of this 2015 Act**.

(2) At least 30 days before issuing a warrant for collection of any tax collected by the department or any amount payable under ORS 311.695, the department shall send the taxpayer or transferee a written notice and demand for payment. The notice shall:

(a) Be sent by mail, addressed to the taxpayer or transferee at the taxpayer's or transferee's last-known address.

(b) Inform the taxpayer or transferee that, even if the taxpayer or transferee is compliant with an installment agreement between the taxpayer or transferee and the department and is in communication with the department, if the tax or any portion of the tax or the amount payable under ORS 311.695 is not paid within 30 days after the date of the notice and demand for payment, a warrant may be issued and recorded as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190 **and section 4 of this 2015 Act**.

(c) Describe in clear nontechnical terms the legal authority for the warrant.

(d) Contain the name, office mailing address and office telephone number of the person issuing the warrant and advise the taxpayer or transferee that questions or complaints concerning the warrant, other than liability for the underlying tax or amount payable under ORS 311.695, may be directed to that person.

(e) Include alternatives available to the taxpayer or transferee that would prevent issuance of the warrant.

(f) Inform the taxpayer or transferee of possible consequences to the taxpayer or transferee of noncompliance, and of issuance of a warrant, including garnishment of wages or bank accounts and seizure and sale of real or personal property.

SECTION 17. ORS 305.992 is amended to read:

305.992. (1) If any returns required to be filed under ORS chapter 118, 314, 316, 317, 318, 321 or 323 **or sections 1 to 13 of this 2015 Act** or under a local tax administered by the Department of Revenue under ORS 305.620 are not filed for three consecutive years by the due date (including extensions) of the return required for the third consecutive year, there shall be a penalty for each year of 100 percent of the tax liability determined after credits and prepayments for each such year.

(2) The penalty imposed under this section is in addition to any other penalty imposed by law. However, the total amount of penalties imposed for any taxable year under this section, ORS 305.265 (13), 314.400, 323.403 or 323.585 [*shall*] **or section 10 of this 2015 Act** may not exceed 100 percent of the tax liability.

SECTION 18. Section 19 of this 2015 Act is added to and made a part of ORS chapter 317.

SECTION 19. Section 280E of the Internal Revenue Code applies to all trafficking in controlled substances in Schedule I or Schedule II that is prohibited by federal law or the laws of this state, other than conduct authorized under sections 3 to 70, chapter 1, Oregon Laws 2015.

SECTION 20. ORS 316.680 is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(e)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(f) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a college savings network account established under ORS 348.841 to 348.873.

(i) Any federal deduction that the taxpayer would have been allowed for the production, processing or sale of marijuana items authorized under sections 3 to 70, chapter 1, Oregon Laws 2015, but for section 280E of the Internal Revenue Code.

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the

obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

SECTION 21. ORS 316.680, as amended by section 74, chapter 1, Oregon Laws 2015, is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(e)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(f) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a college savings network account established under ORS 348.841 to 348.873.

[(i) For income tax years commencing on or after January 1, 2015, the amount of any deductions or credits that the taxpayer would have been allowed but for the provisions of section 280E of the Internal Revenue Code.]

(i) Any federal deduction that the taxpayer would have been allowed for the production, processing or sale of marijuana items authorized under sections 3 to 70, chapter 1, Oregon Laws 2015, but for section 280E of the Internal Revenue Code.

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

EARLY START

SECTION 21a. (1) For purposes of this section:

(a) "Limited marijuana retail product" has the meaning given that term in section 2, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 460).

(b) "Medical marijuana dispensary" means an entity registered with the Oregon Health Authority under ORS 475.314.

(2) On and after January 4, 2016, if a medical marijuana dispensary elects to make sales as described in section 2, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 460), the medical marijuana dispensary must collect the tax imposed under section 2 of this 2015 Act in the same manner that a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, collects the tax imposed under section 2 of this 2015 Act, except that the tax imposed under this section shall be imposed at the rate of 25 percent of the retail sales price of the limited marijuana retail product.

(3) A medical marijuana dispensary that collects taxes as required by this section is subject to the provisions of sections 1 to 13 of this 2015 Act, except that the tax imposed under this section shall be imposed at the rate described in subsection (2) of this section.

MISCELLANEOUS

SECTION 22. Sections 1 to 13 of this 2015 Act and the amendments to ORS 305.140, 305.895 and 305.992 and section 44, chapter 1, Oregon Laws 2015, by sections 14 to 17 of this 2015 Act apply to retail sales of marijuana items occurring on or after January 1, 2016.

SECTION 23. (1) Section 19 of this 2015 Act and the amendments to ORS 316.680 by sections 20 and 21 of this 2015 Act apply to conduct occurring on or after January 1, 2016, and to tax years beginning on or after January 1, 2016.

(2) The repeal of section 71, chapter 1, Oregon Laws 2015, by section 24 of this 2015 Act applies to all tax years.

SECTION 24. (1) Sections 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 71, chapter 1, Oregon Laws 2015, are repealed.

(2) If Senate Bill 460 becomes law, section 21a of this 2015 Act, is repealed on December 31, 2016.

SECTION 25. Section 69, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 69. (1) Except where other punishment is specifically provided for in sections 3 to 70, **chapter 1, Oregon Laws 2015** [of this Act], violation of any provision of sections 3 to 70, **chapter 1, Oregon Laws 2015**, [of this Act] is a Class A misdemeanor.

[2] *A violation of subsection (1) of section 40 of this Act is a Class B misdemeanor.*

[3] (2) Subject to ORS 153.022, violation of any regulation promulgated under paragraph (e) of subsection (2) of section 7 of this Act is a Class C violation.

CAPTIONS

SECTION 26. 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.

EFFECTIVE DATE

SECTION 27. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by House June 25, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 30, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

.....
Jeanne P. Atkins, Secretary of State