

HOUSE AMENDMENTS TO HOUSE BILL 2041

By JOINT COMMITTEE ON IMPLEMENTING MEASURE 91

June 24

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and insert “305.140,
2 305.895, 305.992 and 316.680 and sections 44 and 69, chapter 1, Oregon Laws 2015; repealing sections
3 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 71, chapter 1, Oregon Laws 2015; and prescribing
4 an effective date.”.

5 Delete lines 4 through 31 and delete pages 2 through 5 and insert:
6

“TAX

7
8

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

9

10 “(1) ‘Cannabinoid concentrate,’ ‘cannabinoid edible,’ ‘cannabinoid extract,’ ‘cannabinoid
11 product,’ ‘consumer,’ ‘immature marijuana plant,’ ‘marijuana flowers,’ ‘marijuana items,’
12 ‘marijuana leaves’ and ‘marijuana retailer’ have the meanings given those terms in section
13 5, chapter 1, Oregon Laws 2015.

14 “(2) ‘Retail sale’ means any transfer, exchange, gift or barter of a marijuana item by any
15 person to a consumer.

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

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

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

24 “(a) 17 percent of the retail sales price of marijuana leaves;

25 “(b) 17 percent of the retail sales price of marijuana flowers;

26 “(c) 17 percent of the retail sales price of immature marijuana plants;

27 “(d) 17 percent of the retail sales price of a cannabinoid edible;

28 “(e) 17 percent of the retail sales price of a cannabinoid concentrate;

29 “(f) 17 percent of the retail sales price of a cannabinoid extract;

30 “(g) 17 percent of the retail sales price of a cannabinoid product that is intended to be
31 used by applying the cannabinoid product to the skin or hair; and

32 “(h) 17 percent of the retail sales price of cannabinoid products other than those de-
33 scribed in paragraph (g) of this subsection.

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

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

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

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

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

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

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

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

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

27 “(7) Except as provided in subsections (8) and (9) of this section, the period prescribed
28 for the department to allow or make a refund of any overpayment of tax paid under sections
29 1 to 13 of this 2015 Act shall be as provided in ORS 314.415.

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

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

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

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

42 “(2) At any time a marijuana retailer fails to remit any amount collected, the department
43 may enforce collection by the issuance of a distraint warrant for the collection of the delin-
44 quent amount and all penalties, interest and collection charges accrued thereon. The warrant
45 shall be issued, recorded and proceeded upon in the same manner and shall have the same

1 force and effect as is prescribed with respect to warrants for the collection of delinquent
2 income taxes.

3 “(3)(a) In the case of a marijuana retailer that is assessed pursuant to the provisions of
4 ORS 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer,
5 employee or member of the marijuana retailer within three years from the time of assess-
6 ment. Within 30 days from the date the notice of liability is mailed to the officer, employee
7 or member, the officer, employee or member shall pay the assessment, plus penalties and
8 interest, or advise the department in writing of objections to the liability and, if desired, re-
9 quest a conference. A conference shall be governed by the provisions of ORS 305.265 per-
10 taining to a conference requested from a notice of deficiency.

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

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

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

33 “(b) After a conference or, if no conference is requested, a determination of the issues
34 considering the written objections, the department shall mail the officer, employee or mem-
35 ber a conference letter affirming, canceling or adjusting the notice of determination and as-
36 sessment. Within 90 days from the date the conference letter is mailed to the officer,
37 employee or member, the officer, employee or member shall pay the assessment, plus pen-
38 alties and interest, or appeal in the manner provided for an appeal from a notice of assess-
39 ment.

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

1 “(5)(a) More than one officer or employee of a corporation may be held jointly and se-
2 verally liable for payment of taxes.

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

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

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

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

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

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

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

44 “(2) The department or its authorized representative, upon oral or written demand, may
45 make examinations of the books, papers, records and equipment of persons making retail

1 sales of marijuana items and any other investigations as the department deems necessary
2 to carry out the provisions of sections 1 to 13 of this 2015 Act.

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

10 **“(2) If a person fails to comply with a subpoena or order of the department or to produce**
11 **or permit the examination or inspection of any books, papers, records and equipment perti-**
12 **nent to an investigation or inquiry under sections 1 to 13 of this 2015 Act, or to testify to**
13 **any matter regarding which the person is lawfully interrogated, the department may apply**
14 **to the Oregon Tax Court or to the circuit court of the county in which the person resides**
15 **or where the person is for an order to the person to attend and testify, or otherwise to**
16 **comply with the demand or request of the department. The department shall apply to the**
17 **court by ex parte motion, upon which the court shall make an order requiring the person**
18 **against whom the motion is directed to comply with the request or demand of the depart-**
19 **ment within 10 days after the service of the order, or within the additional time granted by**
20 **the court, or to justify the failure within that time. The order shall be served upon the per-**
21 **son to whom it is directed in the manner required by this state for service of process, which**
22 **service is required to confer jurisdiction upon the court. Failure to obey any order issued**
23 **by the court under this section is contempt of court. The remedy provided by this section is**
24 **in addition to other remedies, civil or criminal, existing under the tax laws or other laws of**
25 **this state.**

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

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

34 **“(3) Except as otherwise provided in sections 3 to 70, chapter 1, Oregon Laws 2015, and**
35 **sections 1 to 13 of this 2015 Act, a person aggrieved by an act or determination of the de-**
36 **partment or its authorized agent under sections 1 to 13 and 19 of this 2015 Act may appeal,**
37 **within 90 days after the act or determination, to the Oregon Tax Court in the manner pro-**
38 **vided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to**
39 **determine the person’s liability for the tax imposed under sections 1 to 13 of this 2015 Act.**

40 **“SECTION 8. (1) The Department of Revenue shall administer and enforce sections 1 to**
41 **13 of this 2015 Act. The department is authorized to establish rules and procedures for the**
42 **implementation and enforcement of sections 1 to 13 of this 2015 Act that are consistent with**
43 **sections 1 to 13 of this 2015 Act and that the department considers necessary and appropriate**
44 **to administer and enforce sections 1 to 13 of this 2015 Act.**

45 **“(2) The Oregon Liquor Control Commission shall enter into an agreement with the de-**

1 department for the purpose of administering and enforcing those provisions of sections 1 to 13
2 of this 2015 Act, and rules or procedures established for the purpose of implementing and
3 enforcing sections 1 to 13 of this 2015 Act, that the commission and the department deter-
4 mine are necessary for the effective and efficient administration, implementation and
5 enforcement of sections 1 to 13 of this 2015 Act.

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

12 **“(b)** The written notification must contain information necessary to determine the va-
13 lidity of the consumer’s claim.

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

18 **“(3)** If excess tax is returned to the consumer by the department, the department may
19 issue a notice of deficiency for the excess tax to the marijuana retailer in the manner pro-
20 vided under ORS 305.265.

21 **“SECTION 10.** Except as otherwise provided in sections 1 to 13 of this 2015 Act or where
22 the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit
23 and examination of returns, periods of limitation, determination of and notices of deficien-
24 cies, assessments, collections, liens, delinquencies, claims for refund and refunds, confer-
25 ences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality
26 of returns and the penalties relative thereto, and the procedures relating thereto, apply to
27 the determinations of taxes, penalties and interest under sections 1 to 13 of this 2015 Act.

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

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

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

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

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“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

1 each county bears to the number of such licenses issued by the commission during such calendar
2 year for all premises in *[the]* **this** state; and

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

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

11 “(4) **A city or county that adopts ordinances prohibiting the establishment of a premises**
12 **for which a license is issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, or**
13 **prohibiting the establishment of an entity for which registration is required under ORS**
14 **475.300 to 475.346, is not eligible to receive distributions under this section.**

15 “[*(3)*] (5) It is the intent of *[this section]* **the Legislative Assembly** that the moneys distributed
16 from the Oregon Marijuana Account to the *[distributees]* **persons listed** in subsection [*(2)*] (3) of this
17 section are in addition to, **and not in lieu of**, any other *[available]* moneys **available** to such
18 *[distributees and do not supplant moneys available from any other source]* **persons.**

19 “**SECTION 15.** ORS 305.140 is amended to read:

20 “305.140. (1) Any person having an interest in or lien upon any real property may request the
21 Department of Revenue in writing to release such real property from a cloud on the title of or lien
22 on such property existing, created or continued under any one or more of the following:

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

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

26 “(2) If, upon a request under subsection (1) of this section, the department finds that a sale of
27 such real property would not result in satisfaction in whole or in part of the taxes due, it shall ex-
28 ecute a release of such cloud or lien upon such property, and such release shall be conclusive evi-
29 dence of the removal and extinguishment of such cloud or lien in respect of such real property.

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

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

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

38 “(c) If there is supplied to the department either an irrevocable letter of credit issued by an
39 insured institution as defined in ORS 706.008 or a bond, in such form and with such surety as the
40 department considers sufficient, conditioned upon the payment of the amount of the warrant, to-
41 gether with all interest in respect thereof, within 60 days after the issuance of the release; or

42 “(d) If there is paid to the department in partial satisfaction of the amount of the warrant pro-
43 vided for in ORS 314.430, 321.570 or 323.610 **or section 4 of this 2015 Act** or the amount of any lien
44 under ORS 311.673, 311.679, 311.689, 311.711 or 311.771, an amount not less than the value, as de-
45 termined by the department, of the lien of the State of Oregon upon the part of the property so to

1 be released. In determining such value the department shall give consideration to the fair market
2 value of the part of the property so to be released and to such liens thereon as have priority to the
3 lien of the State of Oregon.

4 **“SECTION 16.** ORS 305.895 is amended to read:

5 “305.895. (1) Except as provided in ORS 314.440 or other jeopardy assessment procedure, the
6 Department of Revenue shall take no action against a taxpayer’s or transferee’s real or personal
7 property before issuing a warrant for the collection of tax or an amount payable by a transferee
8 under ORS 311.695 as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190 **and**
9 **section 4 of this 2015 Act.**

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

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

15 “(b) Inform the taxpayer or transferee that, even if the taxpayer or transferee is compliant with
16 an installment agreement between the taxpayer or transferee and the department and is in commu-
17 nication with the department, if the tax or any portion of the tax or the amount payable under ORS
18 311.695 is not paid within 30 days after the date of the notice and demand for payment, a warrant
19 may be issued and recorded as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and
20 324.190 **and section 4 of this 2015 Act.**

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

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

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

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

31 **“SECTION 17.** ORS 305.992 is amended to read:

32 “305.992. (1) If any returns required to be filed under ORS chapter 118, 314, 316, 317, 318, 321
33 or 323 **or sections 1 to 13 of this 2015 Act** or under a local tax administered by the Department
34 of Revenue under ORS 305.620 are not filed for three consecutive years by the due date (including
35 extensions) of the return required for the third consecutive year, there shall be a penalty for each
36 year of 100 percent of the tax liability determined after credits and prepayments for each such year.

37 “(2) The penalty imposed under this section is in addition to any other penalty imposed by law.
38 However, the total amount of penalties imposed for any taxable year under this section, ORS 305.265
39 (13), 314.400, 323.403 or 323.585 [shall] **or section 10 of this 2015 Act may** not exceed 100 percent
40 of the tax liability.

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

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

1 “**SECTION 20.** ORS 316.680 is amended to read:

2 “316.680. (1) There shall be subtracted from federal taxable income:

3 “(a) The interest or dividends on obligations of the United States and its territories and pos-
4 sessions or of any authority, commission or instrumentality of the United States to the extent
5 includable in gross income for federal income tax purposes but exempt from state income taxes un-
6 der the laws of the United States. However, the amount subtracted under this paragraph shall be
7 reduced by any interest on indebtedness incurred to carry the obligations or securities described in
8 this paragraph, and by any expenses incurred in the production of interest or dividend income de-
9 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,
10 are deductible in determining federal taxable income.

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

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

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

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

23 “(B) The subtraction allowed under this paragraph applies only to federal pension income re-
24 ceived at a time when:

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

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

28 “(C) As used in this paragraph:

29 “(i) ‘Federal creditable service’ means those periods of time for which a federal employee earned
30 a federal pension.

31 “(ii) ‘Federal pension’ means any form of retirement allowance provided by the federal govern-
32 ment, its agencies or its instrumentalities to retirees of the federal government or their benefi-
33 ciaries.

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

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

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

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

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

1 to 348.873.

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

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

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

11 “(b) Interest or dividends on obligations of any authority, commission, instrumentality and ter-
12 ritorial possession of the United States that by the laws of the United States are exempt from fed-
13 eral income tax but not from state income taxes. However, the amount added under this paragraph
14 shall be reduced by any interest on indebtedness incurred to carry the obligations or securities de-
15 scribed in this paragraph and by any expenses incurred in the production of interest or dividend
16 income described in this paragraph.

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

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

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

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

26 “(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws
27 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,
28 Oregon Laws 1991, that is not includable in the taxpayer’s federal taxable income under the Internal
29 Revenue Code.

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

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

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

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

38 “(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college
39 savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal
40 that is attributable to contributions that were subtracted from federal taxable income under ORS
41 316.699.

42 “(3) Discount and gain or loss on retirement or disposition of obligations described under sub-
43 section (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this
44 chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the
45 Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdi-

1 vision of a foreign state, were not tax exempt under the Internal Revenue Code.

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

4 “316.680. (1) There shall be subtracted from federal taxable income:

5 “(a) The interest or dividends on obligations of the United States and its territories and pos-
6 sessions or of any authority, commission or instrumentality of the United States to the extent
7 includable in gross income for federal income tax purposes but exempt from state income taxes un-
8 der the laws of the United States. However, the amount subtracted under this paragraph shall be
9 reduced by any interest on indebtedness incurred to carry the obligations or securities described in
10 this paragraph, and by any expenses incurred in the production of interest or dividend income de-
11 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,
12 are deductible in determining federal taxable income.

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

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

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

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

25 “(B) The subtraction allowed under this paragraph applies only to federal pension income re-
26 ceived at a time when:

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

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

30 “(C) As used in this paragraph:

31 “(i) ‘Federal creditable service’ means those periods of time for which a federal employee earned
32 a federal pension.

33 “(ii) ‘Federal pension’ means any form of retirement allowance provided by the federal govern-
34 ment, its agencies or its instrumentalities to retirees of the federal government or their benefici-
35 aries.

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

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

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

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

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

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

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

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

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

16 “(b) Interest or dividends on obligations of any authority, commission, instrumentality and ter-
17 ritorial possession of the United States that by the laws of the United States are exempt from fed-
18 eral income tax but not from state income taxes. However, the amount added under this paragraph
19 shall be reduced by any interest on indebtedness incurred to carry the obligations or securities de-
20 scribed in this paragraph and by any expenses incurred in the production of interest or dividend
21 income described in this paragraph.

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

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

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

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

31 “(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws
32 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,
33 Oregon Laws 1991, that is not includable in the taxpayer’s federal taxable income under the Internal
34 Revenue Code.

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

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

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

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

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

1 316.699.

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

7
8 **“EARLY START**

9
10 **“SECTION 21a. (1) For purposes of this section:**

11 **“(a) ‘Limited marijuana retail product’ has the meaning given that term in section 2,**
12 **chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 460).**

13 **“(b) ‘Medical marijuana dispensary’ means an entity registered with the Oregon Health**
14 **Authority under ORS 475.314.**

15 **“(2) On and after January 4, 2016, if a medical marijuana dispensary elects to make sales**
16 **as described in section 2, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 460), the**
17 **medical marijuana dispensary must collect the tax imposed under section 2 of this 2015 Act**
18 **in the same manner that a marijuana retailer that holds a license under section 22, chapter**
19 **1, Oregon Laws 2015, collects the tax imposed under section 2 of this 2015 Act, except that**
20 **the tax imposed under this section shall be imposed at the rate of 25 percent of the retail**
21 **sales price of the limited marijuana retail product.**

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

25
26 **“MISCELLANEOUS**

27
28 **“SECTION 22. Sections 1 to 13 of this 2015 Act and the amendments to ORS 305.140,**
29 **305.895 and 305.992 and section 44, chapter 1, Oregon Laws 2015, by sections 14 to 17 of this**
30 **2015 Act apply to retail sales of marijuana items occurring on or after January 1, 2016.**

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

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

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

38 **“(2) If Senate Bill 460 becomes law, section 21a of this 2015 Act, is repealed on December**
39 **31, 2016.**

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

41 **“Sec. 69. (1) Except where other punishment is specifically provided for in sections 3 to 70,**
42 **chapter 1, Oregon Laws 2015 [of this Act], violation of any provision of sections 3 to 70, chapter**
43 **1, Oregon Laws 2015, [of this Act] is a Class A misdemeanor.**

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

45 **“[(3)] (2) Subject to ORS 153.022, violation of any regulation promulgated under paragraph (e)**

1 of subsection (2) of section 7 of this Act is a Class C violation.

2

3

“CAPTIONS

4

5 **“SECTION 26. The unit captions used in this 2015 Act are provided only for the conven-**
6 **ience of the reader and do not become part of the statutory law of this state or express any**
7 **legislative intent in the enactment of this 2015 Act.**

8

9

“EFFECTIVE DATE

10

11 **“SECTION 27. This 2015 Act takes effect on the 91st day after the date on which the 2015**
12 **regular session of the Seventy-eight Legislative Assembly adjourns sine die.”.**

13
