

# House Bill 2041

Sponsored by Representative SMITH (Presession filed.)

## SUMMARY

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

Provides that local governments may prohibit medical marijuana facilities and producers, processors and sellers of marijuana from being located within one mile of school.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

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

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

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

**SECTION 1.** Section 2 of this 2015 Act is added to and made a part of sections 3 to 70, chapter 1, Oregon Laws 2015.

**SECTION 2.** (1) In addition to regulations that may be adopted under section 59, chapter 1, Oregon Laws 2015, the governing body of a city or county may adopt, subject to subsection (3) of this section, an ordinance that prohibits a marijuana producer, marijuana processor, marijuana wholesaler or marijuana retailer from producing, processing or selling marijuana, marijuana products or marijuana extracts on a premises, any part of which is located in an area described in subsection (2) of this section.

(2) An ordinance adopted under subsection (1) of this section may apply to any area within a distance of one mile of:

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

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

(3) If the governing body of a city or county adopts an ordinance under subsection (1) of this section that prohibits conduct occurring on a premises for which a license has already been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the license remains valid until the date following adoption of the ordinance on which the license is due for renewal.

(4) If a school described in subsection (2) of this section is established within an area to which an ordinance adopted under subsection (1) of this section applies, a license that has already been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, for a premises located in the area to which the ordinance applies remains valid until the date after the school is first attended by students on which the license is due for renewal.

(5) The governing body of a city or county that adopts an ordinance under subsection (1) of this section must provide the text and effective date of the ordinance to the Oregon Liquor

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **Control Commission in a manner prescribed by the commission.**

2  
3 **FACILITIES REGISTERED UNDER THE OREGON**  
4 **MEDICAL MARIJUANA ACT**

5  
6 **SECTION 3. Section 4 of this 2015 Act is added to and made a part of ORS 475.300 to**  
7 **475.346.**

8 **SECTION 4. (1) In addition to regulations that may be adopted under section 2, chapter**  
9 **79, Oregon Laws 2014, and notwithstanding ORS 475.314 (3)(d), the governing body of a city**  
10 **or county may adopt, subject to subsection (3) of this section, an ordinance that prohibits**  
11 **the establishment of a medical marijuana facility in an area described in subsection (2) of**  
12 **this section.**

13 **(2) An ordinance adopted under subsection (1) of this section may apply to any area that**  
14 **is within a distance of one mile of:**

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

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

17 **(3) If the governing body of a city or county adopts an ordinance under subsection (1)**  
18 **of this section, a medical marijuana facility registered under ORS 475.314 that is located in**  
19 **the prohibited area may remain at its current location until the date following adoption of**  
20 **the ordinance on which the registration is due for renewal.**

21 **(4) If a school described in subsection (2) of this section is established within an area to**  
22 **which an ordinance adopted under subsection (1) of this section applies, a registered medical**  
23 **marijuana facility that is located in the prohibited area may remain at its current location**  
24 **until the date after the school is first attended by students on which the license is due for**  
25 **renewal.**

26 **(5) The governing body of a city or county that adopts an ordinance under subsection (1)**  
27 **of this section must provide the text and effective date of the ordinance to the Oregon Health**  
28 **Authority in a manner prescribed by the authority.**

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

31 *475.314. [(1) The Oregon Health Authority shall establish by rule a medical marijuana facility*  
32 *registration system to authorize the transfer of usable marijuana and immature marijuana plants*  
33 *from:]*

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

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

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

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

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

45 **(b) The address of the medical marijuana facility;**

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

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

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

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

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

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

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

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

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

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

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

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

19 **(f) May not be located in an area in which a medical marijuana facility is prohibited by**  
 20 **an ordinance of which the authority has been notified under section 4 of this 2015 Act; and**

21 *[(f)]* **(g)** Must comport with rules adopted by the authority related to:

22 (A) Installing a minimum security system<sup>1</sup>, *including a* **that includes** video surveillance  
 23 *[system]*, **an** alarm system and **a** safe; and

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

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

32 (b) *[A person]* **An individual** convicted for the manufacture or delivery of a controlled substance  
 33 in Schedule I or Schedule II may not be *[the person]* responsible for a medical marijuana facility for  
 34 five years from the date the *[person]* **individual** is convicted.

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

38 (5) If a person submits the application required under subsection (2) of this section, the medical  
 39 marijuana facility identified in the application meets the *[qualifications for a medical marijuana fa-*  
 40 *ility described in]* **requirements under** subsection (3) of this section and *[the person responsible for*  
 41 *the medical marijuana facility]* **each individual named in the application** passes the criminal re-  
 42 cords check required under subsection (4) of this section, the authority shall register the medical  
 43 marijuana facility and issue *[the person responsible for the medical marijuana facility]* proof of reg-  
 44 istration. *[The person responsible for the medical marijuana facility shall display the]* Proof of regis-  
 45 tration **must be displayed** on the premises of the medical marijuana facility at all times when

1 usable marijuana or immature marijuana plants are being transferred as described in subsection (1)  
2 of this section.

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

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

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

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

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

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

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

20 (9) The authority may inspect:

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

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

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

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

35 (11) **Subject to the provisions of ORS chapter 183**, the authority may revoke the registration  
36 of a medical marijuana facility [*registered under this section*] for failure to comply with ORS 475.300  
37 to 475.346, rules adopted under ORS 475.300 to 475.346 or ordinances adopted pursuant to section  
38 2, chapter 79, Oregon Laws 2014, **or section 4 of this 2015 Act**. The authority may release to the  
39 public a final order revoking a medical marijuana facility registration.

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

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

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

45

**APPLICABILITY**

**SECTION 6. The amendments to ORS 475.314 by section 5 of this 2015 Act apply to:**

**(1) Applications for registration of a medical marijuana facility received by the Oregon Health Authority on or after the effective date of this 2015 Act;**

**(2) Applications for renewal of the registration of a medical marijuana facility received by the authority on or after the effective date of this 2015 Act; and**

**(3) Medical marijuana facility registrations updated by the authority on or after the effective date of this 2015 Act.**

**UNIT CAPTIONS**

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

**EMERGENCY CLAUSE**

**SECTION 8. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.**

---