

House Bill 3298

Sponsored by Representative KENY-GUYER

SUMMARY

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

Prohibits sale or transfer of cannabinoid products by medical marijuana facility or person who holds license to sell marijuana at retail if cannabinoid product is not labeled. Specifies contents of label.

Requires medical marijuana facility and person who holds license to sell marijuana at retail to post notice of certain health-related dangers.

Prohibits sale or transfer of cannabinoid product by medical marijuana facility or person who holds license to sell marijuana at retail under certain circumstances.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

3 **SECTION 1. Definitions. As used in sections 1 to 9 of this 2015 Act:**

4 **(1)(a) "Cannabinoid edible" means food or potable liquid into which marijuana or a**
5 **cannabinoid extract has been incorporated.**

6 **(b) "Cannabinoid edible" does not mean:**

7 **(A) Marijuana, by itself; or**

8 **(B) A cannabinoid, by itself.**

9 **(2)(a) "Cannabinoid extract" means a product containing cannabinoids that have been**
10 **separated from marijuana, generally by chemical processes.**

11 **(b) "Cannabinoid extract" does not include:**

12 **(A) A product containing cannabinoids that have been separated from marijuana by me-**
13 **chanical processes;**

14 **(B) A product containing cannabinoids that have been separated from marijuana using**
15 **glycerin, fats, oils or water; or**

16 **(C) If no heat or pressure is used to separate the cannabinoids from the marijuana, a**
17 **product containing cannabinoids that have been separated from marijuana using ethanol or**
18 **carbon dioxide.**

19 **(3) "Cannabinoid product" means a cannabinoid edible, a cannabinoid extract, a**
20 **cannabinoid topical or any other product into which marijuana or a cannabinoid extract has**
21 **been incorporated.**

22 **(4) "Cannabinoid topical" means lotion, cream, gel, balm, oil, ointment or any other**
23 **product meant to be applied to the surfaces of a person's body or a person's hair, into which**
24 **marijuana or a cannabinoid extract has been incorporated.**

25 **(5) "Consumer" means an individual who purchases or acquires marijuana or a**
26 **cannabinoid product from a medical marijuana facility registered under ORS 475.314 or a**
27

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 business located on a premises licensed under section 22, chapter 1, Oregon Laws 2015.

2 (6)(a) "Marijuana" means all parts of the plant genus Cannabis within the plant family
3 Cannabaceae, including the seed, whether growing or not.

4 (b) "Marijuana" does not mean:

5 (A) A cannabinoid edible;

6 (B) A cannabinoid extract;

7 (C) A cannabinoid topical;

8 (D) Any other product into which marijuana or a cannabinoid extract has been incorpo-
9 rated; or

10 (E) Industrial hemp, as defined in ORS 571.300.

11 **SECTION 2. General warnings.** (1) Each individually packaged cannabinoid product shall
12 be labeled in accordance with this section before the cannabinoid product is sold or otherwise
13 transferred by a medical marijuana facility registered under ORS 475.314 or a business lo-
14 cated on a premises licensed under section 22, chapter 1, Oregon Laws 2015, to a consumer.

15 (2)(a) A label required by this section must include the following:

16 (A) A warning that the cannabinoid product contains marijuana or cannabinoids;

17 (B) A warning that the cannabinoid product is to be kept out of the reach of children;

18 (C) A warning that the cannabinoid product may be harmful to pregnant women, may
19 cause birth defects and may be harmful to breastfeeding infants;

20 (D) A statement concerning any potential side effect that a pregnant woman, fetus,
21 breastfeeding child or child might suffer if the pregnant woman or child smokes or ingests
22 the cannabinoid product; and

23 (E) Any other warning determined by the Oregon Liquor Control Commission, pursuant
24 to section 7 (1) of this 2015 Act, or the Oregon Health Authority, pursuant to section 7 (2)
25 of this 2015 Act, to be necessary to prevent a risk of harm to the public health and safety.

26 (b) Notwithstanding subsection (1) of this section, the information described in paragraph
27 (a)(D) of this subsection may be in the form of a paper document that is provided to the
28 consumer of the cannabinoid product at the time of the sale or transfer.

29 (3) If the cannabinoid product is being sold or transferred by a business located on a
30 premises licensed under section 22, chapter 1, Oregon Laws 2015, a label required by this
31 section must also include:

32 (a) A warning that it is unlawful for an individual under 21 years of age to possess the
33 cannabinoid product; and

34 (b) That the cannabinoid product is intended for nonmedical use.

35 (4) If the cannabinoid product is being sold or transferred by a medical marijuana facility
36 registered under ORS 475.314, a label required by this section must also include:

37 (a) A warning that it is unlawful for an individual who is not a registrant under ORS
38 475.300 to 475.346 to possess the cannabinoid product; and

39 (b) That the cannabinoid product is intended for medical use.

40 (5) This section does not apply to cannabinoid topicals.

41 **SECTION 3. Cannabinoid content.** (1) Each individually packaged cannabinoid product
42 shall be labeled in accordance with this section before the cannabinoid product is sold or
43 otherwise transferred by a medical marijuana facility registered under ORS 475.314 or a
44 business located on a premises licensed under section 22, chapter 1, Oregon Laws 2015, to a
45 consumer.

1 (2) A label required by this section must include the following:

2 (a) The percentage of cannabinoids contained in the cannabinoid product by weight;

3 (b) If the percentage of cannabidiol by weight exceeds 0.1 percent, the percentage of
4 cannabidiol contained in the cannabinoid product by weight;

5 (c) If the percentage of tetrahydrocannabinol by weight exceeds 0.1 percent, the percent-
6 age of tetrahydrocannabinol contained in the cannabinoid product by weight; and

7 (d) If the label contains information related to the percentage by weight of both
8 cannabidiol and tetrahydrocannabinol, the ratio of cannabidiol by weight to
9 tetrahydrocannabinol by weight.

10 **SECTION 4. Cannabinoid edibles.** (1) Each individually packaged cannabinoid edible shall
11 be labeled in accordance with this section before the cannabinoid edible is sold or otherwise
12 transferred by a medical marijuana facility registered under ORS 475.314 or a business lo-
13 cated on a premises licensed under section 22, chapter 1, Oregon Laws 2015, to a consumer.

14 (2) A label required by this section must:

15 (a) Comply with any other state or federal law, rule or regulation prescribing a labeling
16 requirement for that same type of food product or potable liquid when the food product or
17 potable liquid does not contain marijuana or cannabinoids; and

18 (b) Include the following:

19 (A) A statement that the cannabinoid edible is packaged as a single dose;

20 (B) Prominent and clear instructions for use, including the period of time that an indi-
21 vidual should wait between doses;

22 (C) A warning of the potential to overdose; and

23 (D) A poison control center emergency telephone number.

24 **SECTION 5. Notice.** (1) A medical marijuana facility registered under ORS 475.314 and a
25 marijuana retailer who owns or operates a business located on a premises licensed under
26 section 22, chapter 1, Oregon Laws 2015, must post at the facility or on the premises of the
27 business notice of:

28 (a) The potential harmful effects of marijuana on pregnant women;

29 (b) The potential harmful effects of marijuana on fetuses; and

30 (c) The potential harmful effects of marijuana on breastfeeding infants.

31 (2) Notice required by this section must be posted in a location that is clearly visible to
32 any individual receiving from the registered medical marijuana facility or the marijuana
33 retailer, marijuana or a cannabinoid product.

34 **SECTION 6. Prohibitions on sales and transfers.** (1) A medical marijuana facility regis-
35 tered under ORS 475.314 and a marijuana retailer who owns or operates a business located
36 on a premises licensed under section 22, chapter 1, Oregon Laws 2015, may not sell or
37 transfer a cannabinoid product to a consumer if:

38 (a) The cannabinoid product is not packaged in child-resistant safety packaging that
39 meets standards established by the Oregon Liquor Control Commission, pursuant to section
40 7 (1) of this 2015 Act, or the Oregon Health Authority, pursuant to section 7 (2) of this 2015
41 Act;

42 (b) The cannabinoid product is processed or packaged in a manner that is attractive to
43 minors, as determined by the commission, pursuant to section 7 (1) of this 2015 Act, or the
44 authority, pursuant to section 7 (2) of this 2015 Act;

45 (c) The cannabinoid product is marketed in manner that is untruthful, misleading or at-

1 tractive to minors or that otherwise creates a significant risk to the public health and safety,
 2 as determined by the commission, pursuant to section 7 (1) of this 2015 Act, or the authority,
 3 pursuant to section 7 (2) of this 2015 Act;

4 (d) The cannabinoid product contains a percentage of a cannabinoid by weight that is
 5 unsafe for human consumption, as determined by the commission, pursuant to section 7 (1)
 6 of this 2015 Act, or the authority, pursuant to section 7 (2) of this 2015 Act; and

7 (e) The cannabinoid product is a cannabinoid edible and the cannabinoid product is not
 8 packaged as a single dose, as determined by the commission, pursuant to section 7 (1) of this
 9 2015 Act, or the authority, pursuant to section 7 (2) of this 2015 Act.

10 **SECTION 7. Rules.** (1) The Oregon Liquor Control Commission shall adopt rules neces-
 11 sary to implement sections 1 to 9 of this 2015 Act for the purpose of ensuring that the re-
 12 quirements of sections 1 to 9 of this 2015 Act are met with respect to businesses located on
 13 premises licensed under section 22, chapter 1, Oregon Laws 2015, and the sale or transfer
 14 of marijuana or cannabinoid products by businesses located on premises licensed under sec-
 15 tion 22, chapter 1, Oregon Laws 2015, to consumers. Rules adopted under this subsection may
 16 establish different duties for different licensees or different types of licensee representatives,
 17 as those terms are defined in section 5, chapter 1, Oregon Laws 2015.

18 (2) The Oregon Health Authority shall adopt rules necessary to implement sections 1 to
 19 9 of this 2015 Act for the purpose of ensuring that the requirements of sections 1 to 9 of this
 20 2015 Act are met with respect to medical marijuana facilities licensed under ORS 475.314 and
 21 the sale or transfer of marijuana or cannabinoid products by medical marijuana facilities to
 22 consumers. Rules adopted under this subsection may establish different duties for different
 23 registrants under ORS 475.300 to 475.346, except that the authority may not adopt any rule
 24 establishing a duty for an individual who holds a registry identification card or a person who
 25 is designated as the primary caregiver of a registry identification cardholder pursuant to
 26 ORS 475.309 and 475.312.

27 (3) The commission and the authority shall consult with one another before adopting
 28 rules under this section.

29 **SECTION 8. Inspections.** (1) The Oregon Health Authority may inspect the premises of
 30 a registrant under ORS 475.300 to 475.346 to ensure compliance with sections 1 to 9 of this
 31 2015 Act and any rule adopted under sections 1 to 9 of this 2015 Act, except that the au-
 32 thority may not inspect the premises of an individual who holds a registry identification card
 33 or a person who is designated as the primary caregiver of a registry identification cardholder
 34 pursuant to ORS 475.309 and 475.312.

35 (2) The Oregon Liquor Control Commission may inspect the premises of a person who
 36 holds a license under section 20 or 22, chapter 1, Oregon Laws 2015, to ensure compliance
 37 with sections 1 to 9 of this 2015 Act and any rule adopted under sections 1 to 9 of this 2015
 38 Act.

39 (3) The state police, sheriffs and other police officers within this state shall assist the
 40 authority and commission in enforcing sections 1 to 9 of this 2015 Act and any rule adopted
 41 under sections 1 to 9 of this 2015 Act. A member of the state police, a sheriff or any other
 42 police officer who has notice, knowledge or reasonable ground of suspicion of a violation of
 43 sections 1 to 9 of this 2015 Act or of a rule adopted under sections 1 to 9 of this 2015 Act shall
 44 immediately notify the district attorney of the county in which the violation occurred and
 45 furnish the district attorney with any information related to the violation, including the

1 **name and address of any witness to the violation.**

2 (4) **The authority and the commission may enter into an agreement whereby the com-**
 3 **mission conducts inspections on behalf of the authority under this section.**

4 **SECTION 9. Discipline.** Subject to the applicable provisions of ORS chapter 183:

5 (1) **The Oregon Liquor Control Commission may refuse to issue or renew, or may suspend**
 6 **or revoke, a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the**
 7 **applicant or licensee violates a provision of sections 1 to 9 of this 2015 Act or any rule**
 8 **adopted under sections 1 to 9 of this 2015 Act.**

9 (2) **The Oregon Health Authority may refuse to register a person under ORS 475.300 to**
 10 **475.346, or may remove a registrant from a registry kept pursuant to ORS 475.300 to 475.346,**
 11 **if the person violates any provision of sections 1 to 9 of this 2015 Act or any rule adopted**
 12 **under sections 1 to 9 of this 2015 Act.**

13 **SECTION 10.** ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended
 14 to read:

15 475.314. [(1) *The Oregon Health Authority shall establish by rule a medical marijuana facility*
 16 *registration system to authorize the transfer of usable marijuana and immature marijuana plants*
 17 *from:]*

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

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

23 (1) **The Oregon Health Authority shall establish by rule a system for registering medical**
 24 **marijuana facilities that transfer usable marijuana and immature marijuana plants to regis-**
 25 **try identification cardholders and designated primary caregivers. Rules adopted under this**
 26 **subsection shall require all usable marijuana and immature marijuana plants transferred by**
 27 **a registered medical marijuana facility to be produced and processed in accordance with the**
 28 **laws of this state.**

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

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

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

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

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

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

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

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

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

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

45 (d) [*Must*] **May** not be located within 1,000 feet of the real property comprising a public or pri-

1 vate elementary, secondary or career school attended primarily by minors;

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

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

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

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

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

14 (b) *[A person]* **An individual** convicted *[for]* **of** the manufacture or delivery of a controlled sub-
15 stance in Schedule I or Schedule II may not be *[the person]* responsible for a medical marijuana fa-
16 cility for five years from the date the person is convicted.

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

20 (5) If a person submits the application required under subsection (2) of this section, the medical
21 marijuana facility identified in the application meets the *[qualifications for a medical marijuana fa-*
22 *cility described in]* **requirements of** subsection (3) of this section and *[the person responsible for the*
23 *medical marijuana facility]* **each individual named in the application** passes the criminal records
24 check required under subsection (4) of this section, the authority shall register the medical
25 marijuana facility and issue *[the person responsible for the medical marijuana facility]* proof of reg-
26 istration. *[The person responsible for the medical marijuana facility shall display the]* Proof of regis-
27 tration **must be displayed** on the premises of the medical marijuana facility at all times when
28 usable marijuana or immature marijuana plants are being transferred as described in subsection (1)
29 of this section.

30 *[(6)(a) A registered medical marijuana facility may receive usable marijuana or immature*
31 *marijuana plants only from a registry identification cardholder, designated primary caregiver or person*
32 *responsible for a marijuana grow site if the registered medical marijuana facility obtains authorization,*
33 *on a form prescribed by the authority by rule and signed by a registry identification cardholder, to*
34 *receive the usable marijuana or immature marijuana plants.]*

35 *[(b) A registered medical marijuana facility shall maintain:]*

36 *[(A) A copy of each authorization form described in paragraph (a) of this subsection; and]*

37 *[(B) Documentation of each transfer of usable marijuana or immature marijuana plants.]*

38 **(6) The person or persons responsible for a medical marijuana facility registered under**
39 **this section shall maintain documentation of each transfer of usable marijuana and imma-**
40 **ture marijuana plants.**

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

44 *[(8)(a) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused*
45 *product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant*

1 *safety packaging that meets standards established by the authority by rule.]*

2 *[(b) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused*
 3 *product that is manufactured or packaged in a manner that is attractive to minors, as determined by*
 4 *the authority by rule.]*

5 [(9)] **(8)** The authority may inspect:

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

9 (b) The records of a registered medical marijuana facility to ensure compliance with subsection
 10 *[(6)(b)]* **(6)** of this section.

11 *[(10)(a)]* **(9)(a)** A registry identification cardholder or the designated primary caregiver of a
 12 registry identification cardholder may reimburse a **registered** medical marijuana facility *[registered*
 13 *under this section]* for the normal and customary costs of doing business, including costs related to
 14 transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and
 15 immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

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

20 *[(11)]* **(10) Subject to the provisions of ORS chapter 183,** the authority may revoke the reg-
 21 istration of a medical marijuana facility *[registered under this section]* for failure to comply with ORS
 22 475.300 to 475.346, rules adopted under ORS 475.300 to 475.346 or ordinances adopted pursuant to
 23 section 2, chapter 79, Oregon Laws 2014. The authority may release to the public a final order re-
 24 voking a medical marijuana facility registration.

25 *[(12)]* **(11)** The authority shall adopt rules to implement this section, including rules that:

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

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

30 **SECTION 11. Operative date.** (1) **Sections 1 to 9 of this 2015 Act and the amendments to**
 31 **ORS 475.314 by section 10 of this 2015 Act become operative on January 1, 2016.**

32 (2) **The Oregon Liquor Control Commission and the Oregon Health Authority may take**
 33 **any action before the operative date specified in subsection (1) of this section that is neces-**
 34 **sary to enable the commission and the authority to exercise, on and after the operative date**
 35 **specified in subsection (1) of this section, all the duties, functions and powers conferred on**
 36 **the commission and the authority by sections 1 to 9 of this 2015 Act and the amendments**
 37 **to ORS 475.314 by section 10 of this 2015 Act.**

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

41 **SECTION 13. Emergency clause.** **This 2015 Act being necessary for the immediate pres-**
 42 **ervation of the public peace, health and safety, an emergency is declared to exist, and this**
 43 **2015 Act takes effect on its passage.**