

# House Bill 3369

Sponsored by Representative LININGER

## 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 Oregon Liquor Control Commission from issuing license to producer, processor or seller of marijuana if proposed premises for producing, processing or selling marijuana is within 1,000 feet of school.

Exempts licensed producers, processors and sellers of marijuana and their representatives, and persons producing, processing, keeping, storing or delivering marijuana pursuant to homegrown marijuana provisions of chapter 1, Oregon Laws 2015 (Ballot Measure 91 (2014)), from crimes of unlawful manufacture of marijuana within 1,000 feet of school and unlawful delivery of marijuana within 1,000 feet of school.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to marijuana; creating new provisions; amending ORS 475.858 and 475.862 and section 18, chapter 1, Oregon Laws 2015 (Ballot Measure 91 (2014)); and declaring an emergency.

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

## PROHIBITION AGAINST LICENSING PRODUCERS, PROCESSORS AND SELLERS WITHIN 1,000 FEET OF SCHOOL

**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) For purposes of this section, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from a specified location or a point on the boundary line of a specified unit or property.

(2) Subject to subsection (3) of this section, the Oregon Liquor Control Commission may not issue or renew a production license under section 19, chapter 1, Oregon Laws 2015, a processor license under section 20, chapter 1, Oregon Laws 2015, a wholesale license under section 21, chapter 1, Oregon Laws 2015, or a retail license under section 22, chapter 1, Oregon Laws 2015, to a person applying for the license or renewal if the premises for which the license is to be issued or renewed is located within 1,000 feet of:

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

(b) A private or parochial elementary or secondary school that teaches children as described in ORS 339.030 (1)(a); or

(c) A career school attended primarily by minors.

(3) If a school described in subsection (2) of this section is established within 1,000 feet of any part of the premises for which a license described in subsection (2) of this section has been issued, the license remains valid until the date on which the school is first attended by students.

**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.

**SECTION 3.** Section 18, chapter 1, Oregon Laws 2015, is amended to read:

**Sec. 18.** (1) *[On or before January 4, 2016,]* **Subject to section 2 of this 2015 Act,** the Oregon Liquor Control Commission shall *[begin receiving applications for the licensing of persons]* **approve or deny an application** to produce, process[,] and sell marijuana *[within the state]* **under sections 19, 20, 21 and 22, chapter 1, Oregon Laws 2015.** Upon *[receipt of a license]* **receiving an** application, the commission *[shall]* **may** not unreasonably delay *[the processing, approval, or rejection of]* **processing, approving or denying** the application or, if the application is approved, *[the issuance of]* **issuing** the license.

(2) The licenses described in sections *[3 to 70 of this Act shall]* **19, 20, 21 and 22, chapter 1, Oregon Laws 2015, must** be issued by the commission, subject to *[its regulations and restrictions and]* the provisions of sections 3 to 70 *[of this Act],* **chapter 1, Oregon Laws 2015, and the rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015.**

(3) The commission may not license a premises that does not have defined boundaries. A licensed premises *[need]* **does not need to** be enclosed by a wall, fence or other structure, but the commission may require *[that any]* a licensed premises be enclosed as a condition of issuing or renewing a license. The commission may not license *[premises that are]* mobile **premises.**

**SECTION 4.** (1) **Section 2 of this 2015 Act and the amendments to section 18, chapter 1, Oregon Laws 2015, by section 3 of this 2015 Act become operative on January 4, 2016.**

(2) **The Oregon Liquor Control Commission may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the commission to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the commission by section 2 of this 2015 Act and the amendments to section 18, chapter 1, Oregon Laws 2015, by section 3 of this 2015 Act.**

**EXEMPTION FROM CRIMINAL LIABILITY**

**SECTION 5.** ORS 475.858 is amended to read:

475.858. (1) It is unlawful for any person to manufacture marijuana within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture of marijuana within 1,000 feet of a school is a Class A felony.

**(3) This section does not apply to:**

**(a) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015; or**

**(b) A licensee or licensee representative, as those terms are defined in section 5, chapter 1, Oregon Laws 2015.**

**SECTION 6.** ORS 475.862 is amended to read:

475.862. (1) It is unlawful for any person to deliver marijuana within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful delivery of marijuana within 1,000 feet of a school is a Class A felony.

**(3) This section does not apply to:**

**(a) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015; or**

**(b) A licensee or licensee representative, as those terms are defined in section 5, chapter**

1 **1, Oregon Laws 2015.**

2 **SECTION 7. The amendments to ORS 475.858 and 475.862 by sections 5 and 6 of this 2015**  
3 **Act apply to conduct occurring on and after the effective date of this 2015 Act.**

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**UNIT CAPTIONS**

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7 **SECTION 8. The unit captions used in this 2015 Act are provided only for the convenience**  
8 **of the reader and do not become part of the statutory law of this state or express any leg-**  
9 **islative intent in the enactment of this 2015 Act.**

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**EMERGENCY CLAUSE**

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13 **SECTION 9. This 2015 Act being necessary for the immediate preservation of the public**  
14 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
15 **on its passage.**

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