

D R A F T

SUMMARY

Exempts certain applicants for license to produce marijuana from requirement that land use compatibility statement be obtained.

Modifies certain laws related to county and city regulation of marijuana business entities.

Provides for expungement of marijuana related crimes if penalty for crime has been reduced to penalty for which crime may be expunged.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to cannabis; creating new provisions; amending ORS 475B.340,
3 475B.370, 475B.375 and 475B.500; and declaring an emergency.

4 Whereas the production of marijuana is a unique agricultural enterprise
5 in this state because marijuana is a controlled substance under federal law
6 and grown only pursuant to state authorization; and

7 Whereas this state desires to recognize marijuana as an agricultural
8 commodity despite its unique status and the unique regulatory challenges it
9 poses; and

10 Whereas this state desires to allow local governments to impose reason-
11 able regulations on the operations of businesses that produce marijuana be-
12 cause of the unique status of the crop; now, therefore,

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

LAND USE LAWS

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17 **SECTION 1. Section 2 of this 2016 Act is added to and made a part**
18 **of ORS 475B.010 to 475B.395.**

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 **SECTION 2. The requirement under ORS 475B.063 to obtain a land**
2 **use compatibility statement as a condition of receiving a license under**
3 **ORS 475B.070 does not apply to an applicant if:**

4 **(1) The applicant is applying for a license at an address where a**
5 **marijuana grow site registered under ORS 475B.420 is located;**

6 **(2) The address is outside of city limits;**

7 **(3) Each person responsible for a marijuana grow site located at the**
8 **address first registered with the Oregon Health Authority under ORS**
9 **475B.420 before January 1, 2015; and**

10 **(4) The applicant is applying for a mature marijuana plant grow**
11 **canopy of:**

12 **(a) 5,000 square feet or less, if the marijuana is produced outdoors;**

13 **or**

14 **(b) 1,250 square feet or less, if the marijuana is produced indoors.**

15 **SECTION 3. ORS 475B.370 is amended to read:**

16 475B.370. (1) [*Notwithstanding any other provision of law,*] Marijuana is:

17 (a) A crop for the purposes of “farm use” as defined in ORS 215.203;

18 (b) A crop for purposes of a “farm” and “farming practice,” both as de-
19 fined in ORS 30.930;

20 (c) A product of farm use as described in ORS 308A.062; and

21 (d) The product of an agricultural activity for purposes of ORS 568.909.

22 (2) Notwithstanding ORS chapters 195, 196, 197 [*and*], 215 **and 227**, the
23 following are not permitted uses on land designated for exclusive farm use:

24 (a) A new dwelling used in conjunction with a marijuana crop;

25 (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used
26 in conjunction with a marijuana crop; and

27 (c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283
28 (2)(a), carried on in conjunction with a marijuana crop.

29 (3) A county may allow the production of marijuana as a farm use on land
30 zoned for farm or forest use in the same manner as the production of
31 marijuana is allowed in exclusive farm use zones under this section and ORS

1 215.213, 215.283 and 475B.063.

2 **(4) This section applies to:**

3 **(a) Marijuana producers licensed under ORS 475B.070; and**

4 **(b) Persons registered under ORS 475B.420 and designated to**
5 **produce marijuana by one or more persons who hold a valid registry**
6 **identification card issued under ORS 475B.415.**

7 **SECTION 4.** ORS 475B.340 is amended to read:

8 475B.340. (1) For purposes of this section, “reasonable regulations” in-
9 cludes:

10 (a) Reasonable conditions on the manner in which a marijuana producer
11 licensed under ORS 475B.070 may produce marijuana;

12 (b) Reasonable conditions on the manner in which a marijuana processor
13 licensed under ORS 475B.090 may process marijuana;

14 (c) Reasonable conditions on the manner in which a marijuana wholesaler
15 licensed under ORS 475B.100 may sell marijuana at wholesale;

16 (d) Reasonable limitations on the hours during which a marijuana retailer
17 licensed under ORS 475B.110 may operate;

18 (e) Reasonable conditions on the manner in which a marijuana retailer
19 licensed under ORS 475B.110 may sell marijuana items;

20 (f) Reasonable requirements related to the public’s access to a premises
21 for which a license has been issued under ORS 475B.070, 475B.090, 475B.100
22 or 475B.110; and

23 (g) Reasonable limitations on where a premises for which a license may
24 be issued under ORS 475B.070, 475B.090, 475B.100 or 475B.110 may be located.

25 (2) Notwithstanding ORS **30.935, 215.253 (1) or** 633.738, the governing
26 body of a city or county may adopt ordinances that impose reasonable regu-
27 lations on the operation of businesses located at premises for which a license
28 has been issued under ORS 475B.070, 475B.090, 475B.100 or 475B.110 if the
29 premises are located in the area subject to the jurisdiction of the city or
30 county, except that the governing body of a city or county may not:

31 **(a) Adopt an ordinance that prohibits a premises for which a license has**

1 been issued under ORS 475B.110 from being located within a distance that
2 is greater than 1,000 feet of another premises for which a license has been
3 issued under ORS 475B.110.

4 **(b) Adopt an ordinance after January 1, 2015, that imposes a setback**
5 **requirement for an agricultural building used to produce marijuana**
6 **located on a premises for which a license has been issued under ORS**
7 **475B.070 if the agricultural building:**

8 **(A) Was constructed on or before July 1, 2015, in compliance with**
9 **all applicable land use and building code requirements at the time of**
10 **construction;**

11 **(B) Is located at an address where a marijuana grow site first reg-**
12 **istered with the Oregon Health Authority under ORS 475B.420 on or**
13 **before January 1, 2015;**

14 **(C) Was used to produce marijuana pursuant to the provisions of**
15 **ORS 475B.400 to 475B.525 on or before January 1, 2015; and**

16 **(D) Has four opaque walls and a roof.**

17 *[(3) Regulations adopted under this section must be consistent with city and*
18 *county comprehensive plans and zoning ordinances and applicable provisions*
19 *of public health and safety laws.]*

20 **SECTION 5.** ORS 475B.500 is amended to read:

21 475B.500. (1) For purposes of this section, “reasonable regulations” in-
22 cludes:

23 (a) Reasonable limitations on the hours during which the marijuana grow
24 site of a person designated to produce marijuana by a registry identification
25 cardholder, a marijuana processing site or a medical marijuana dispensary
26 may operate;

27 (b) Reasonable conditions on the manner in which **the marijuana grow**
28 **site of a person designated to produce marijuana by a registry iden-**
29 **tification cardholder**, a marijuana processing site or a medical marijuana
30 dispensary may transfer usable marijuana, medical cannabinoid products,
31 cannabinoid concentrates, cannabinoid extracts, immature marijuana plants

1 and seeds;

2 (c) Reasonable requirements related to the public’s access to the
3 marijuana grow site of a person designated to produce marijuana by a reg-
4 istry identification cardholder, a marijuana processing site or a medical
5 marijuana dispensary; and

6 (d) Reasonable limitations on where the marijuana grow site of a person
7 designated to produce marijuana by a registry identification cardholder, a
8 marijuana processing site or a medical marijuana dispensary may be located.

9 (2) Notwithstanding ORS **30.935, 215.253 (1) or** 633.738, the governing
10 body of a city or county may adopt ordinances that impose reasonable regu-
11 lations on the operation of marijuana grow sites of persons designated to
12 produce marijuana by registry identification cardholders, marijuana pro-
13 cessing sites and medical marijuana dispensaries that are located in the area
14 subject to the jurisdiction of the city or county.

15 **SECTION 6.** ORS 475B.375 is amended to read:

16 475B.375. [*ORS 475B.025, 475B.033, 475B.035, 475B.040, 475B.045, 475B.055,*
17 *475B.060, 475B.065, 475B.068, 475B.070, 475B.090, 475B.100, 475B.110,*
18 *475B.130, 475B.160, 475B.165, 475B.170, 475B.180, 475B.185, 475B.190,*
19 *475B.195, 475B.200, 475B.205, 475B.210, 475B.250, 475B.255, 475B.260,*
20 *475B.265, 475B.270, 475B.275, 475B.280, 475B.298, 475B.300, 475B.305,*
21 *475B.310, 475B.315, 475B.320, 475B.325, 475B.330, 475B.335, 475B.340,*
22 *475B.350, 475B.353, 475B.355, 475B.358, 475B.365, 475B.378, 475B.380 and*
23 *475B.395.*] **Except for ORS 475B.370 and 475B.373, ORS 475B.010 to**
24 **475B.395:**

25 (1) Do not apply to the extent a person acts within the scope of and in
26 compliance with the Oregon Medical Marijuana Act; and

27 (2) Do not amend or affect duties, functions and powers of the Oregon
28 Health Authority under the Oregon Medical Marijuana Act.

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EXPUNGEMENT

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1 **SECTION 7.** When a person convicted of a marijuana offense based
2 on conduct that occurred before the effective date of chapter __,
3 Oregon Laws 2016 (Enrolled House Bill 4014), files a motion for a court
4 order setting aside the conviction pursuant to ORS 137.225, the court
5 shall consider the offense to be classified under ORS 161.535 or 161.555
6 as if the conduct occurred on or after the effective date of chapter __,
7 Oregon Laws 2016 (Enrolled House Bill 4014), or if the offense is no
8 longer a crime, the court shall consider the offense to be a Class C
9 misdemeanor, when determining if the person is eligible for the order.

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UNIT CAPTIONS

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13 **SECTION 8.** The unit captions used in this 2016 Act are provided
14 only for the convenience of the reader and do not become part of the
15 statutory law of this state or express any legislative intent in the
16 enactment of this 2016 Act.

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EMERGENCY CLAUSE

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20 **SECTION 9.** This 2016 Act being necessary for the immediate pres-
21 ervation of the public peace, health and safety, an emergency is de-
22 clared to exist, and this 2016 Act takes effect on its passage.

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