

Enrolled
House Bill 4094

Sponsored by Representatives READ, WILSON, HOYLE, OLSON; Representatives HELM, HOLVEY, KENY-GUYER, LININGER, WILLIAMSON (Pre-session filed.)

CHAPTER

AN ACT

Relating to cannabis; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 6 of this 2016 Act:

- (1) "Deliver" has the meaning given that term in ORS 475.005.
- (2) "Financial institution" means:
 - (a) A financial institution as defined in ORS 706.008.
 - (b) A trust company as defined in ORS 706.008.
 - (c) A money transmission business licensed under ORS 717.200 to 717.320, 717.900 and 717.905.
 - (d) An affiliate of an entity described in paragraph (a), (b) or (c) of this subsection.
 - (e) An employee or agent of an entity described in paragraph (a), (b) or (c) of this subsection.
- (3) "Manufacture" has the meaning given that term in ORS 475.005.
- (4) "Marijuana" has the meaning given that term in ORS 475.005.
- (5) "Marijuana-derived product" means cannabinoid products, cannabinoid concentrates and cannabinoid extracts, all as defined in ORS 475B.015.

SECTION 2. A financial institution that provides financial services customarily provided by financial institutions pursuant to powers granted by ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act or by ORS chapter 723 to a marijuana processing site registered under ORS 475B.435, a medical marijuana dispensary registered under ORS 475B.450, a marijuana producer that holds a license under ORS 475B.070, a marijuana processor that holds a license under ORS 475B.090, a marijuana wholesaler that holds a license under ORS 475B.100, a marijuana retailer that holds a license under ORS 475B.110, a laboratory that holds a license under ORS 475B.560 or a person to whom a permit has been issued under ORS 475B.218 is exempt from any criminal law of this state an element of which may be proven by substantiating that a person provides financial services customarily provided by financial institutions pursuant to powers granted by ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act or ORS chapter 723 to a person who possesses, delivers or manufactures marijuana or marijuana derived products.

SECTION 3. (1) Notwithstanding any law relating to the exemption of information from public disclosure under ORS 475B.010 to 475B.395 or 475B.550 to 475B.590, upon the request of a financial institution, the Oregon Liquor Control Commission shall provide to the financial institution the following information:

(a) Whether a person with whom the financial institution is doing business holds a license under ORS 475B.070, 475B.090, 475B.100, 475B.110 or 475B.560 or a permit under ORS 475B.218;

(b) The name of any other business or individual affiliated with the person;

(c) A copy of the application, and any supporting documentation submitted with the application, for a license or a permit submitted by the person;

(d) If applicable, data relating to sales and the volume of product sold by the person;

(e) Whether the person is currently compliant with the provisions of ORS 475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted under ORS 475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655;

(f) Any past or pending violation by the person of a provision of ORS 475B.010 to 475B.395, 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.010 to 475B.395, 475B.550 to 475B.590 or 475B.600 to 475B.655; and

(g) Any penalty imposed upon the person for violating a provision of ORS 475B.010 to 475B.395, 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.010 to 475B.395, 475B.550 to 475B.590 or 475B.600 to 475B.655.

(2) Upon receiving a request under subsection (1) of this section, the commission shall provide the requesting financial institution with the requested information.

(3) The commission may charge a financial institution a reasonable fee to cover the administrative costs of providing information under this section.

SECTION 4. (1) Notwithstanding any law relating to the exemption of information from public disclosure under ORS 475B.400 to 475B.525, upon the request of a financial institution, the Oregon Health Authority shall provide to the financial institution the following information:

(a) Whether a person with whom the financial institution is doing business is registered under ORS 475B.435 or 475B.450;

(b) The name of any other business or individual affiliated with the person;

(c) A copy of the application, and any supporting documentation submitted with that application, for registration submitted by the person;

(d) Data relating to the volume of product transferred by the person;

(e) Whether the person is currently compliant with the provisions of ORS 475B.400 to 475B.525, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted under ORS 475B.400 to 475B.525, 475B.550 to 475B.590 and 475B.600 to 475B.655;

(f) Any past or pending violation by the person of a provision of ORS 475B.400 to 475B.525, 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.400 to 475B.525, 475B.550 to 475B.590 or 475B.600 to 475B.655; and

(g) Any penalty imposed upon the person for violating a provision of ORS 475B.400 to 475B.525, 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.400 to 475B.525, 475B.550 to 475B.590 or 475B.600 to 475B.655.

(2) Upon receiving a request under subsection (1) of this section, the authority shall provide the requesting financial institution with the requested information.

(3) The authority may charge a financial institution a reasonable fee to cover the administrative costs of providing information under this section.

SECTION 5. (1) Notwithstanding any law relating to the exemption of information from public disclosure under ORS 475B.700 to 475B.760, or relating to the confidentiality of tax return information, upon the request of a financial institution, the Department of Revenue shall provide to the financial institution the following information:

(a) Whether the person is currently compliant with the provisions of ORS 475B.700 to 475B.760 and rules adopted under ORS 475B.700 to 475B.760;

(b) Any past or pending violation by the person of a provision of ORS 475B.700 to 475B.760 or a rule adopted under ORS 475B.700 to 475B.760; and

(c) Any penalty imposed upon the person for violating a provision of ORS 475B.700 to 475B.760 or a rule adopted under ORS 475B.700 to 475B.760.

(2) Upon receiving a request under subsection (1) of this section, the department shall provide the requesting financial institution with the requested information.

(3) The department may charge a financial institution a reasonable fee to cover the administrative costs of providing information under this section.

SECTION 6. Information received by a financial institution under section 3, 4 or 5 of this 2016 Act is confidential for purposes of ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act and ORS chapter 723. Except as otherwise required or permitted by the provisions of ORS 192.583 to 192.607, 717.200 to 717.320, 717.900 and 717.905, or the Bank Act or ORS chapter 723, or by other state law or rule or federal law or regulation, a financial institution may not make the information available to any person other than:

(1) The customer to whom the information applies; and

(2) A trustee, conservator, guardian, personal representative or agent of the customer to whom the information applies.

SECTION 7. (1) The Department of Consumer and Business Services shall conduct a study on:

(a) The provision of depository and related financial services to businesses that engage in the lawful production, processing or sale of marijuana and marijuana derived products; and

(b) State laws and rules, federal laws and regulations and administrative acts related to providing depository and related financial services and how those laws, rules, regulations and acts apply to businesses that engage in the production, processing or sale of marijuana and marijuana derived products.

(2) As part of the study, the Department of Consumer and Business Services shall evaluate the BSA Expectations Regarding Marijuana-Related Businesses memorandum published by the federal Department of the Treasury on February 14, 2014.

(3) As part of the study, the Department of Consumer and Business Services may evaluate methods of providing depository and related financial services to businesses that engage in the production, processing or sale of marijuana and marijuana derived products that do not involve financial institutions.

(4) The Department of Consumer and Business Services shall make a report on the study that the department conducts under this section. As part of that report, the department shall identify any legislation or administrative action required to facilitate the provision of depository and related financial services to businesses that engage in the production, processing or sale of marijuana and marijuana derived products.

(5) On or before January 1, 2017, the Department of Consumer and Business Services shall provide the report required by subsection (4) of this section to the interim legislative committees related to business and any interim legislative committee specifically related to businesses that engage in the production, processing or sale of marijuana and marijuana derived products. The report shall be provided in the manner described in ORS 192.245.

SECTION 8. Section 7 of this 2016 Act is repealed on January 1, 2018.

SECTION 9. This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.

Passed by House February 16, 2016

Repassed by House February 29, 2016

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate February 26, 2016

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2016

Approved:

.....M.,....., 2016

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2016

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Jeanne P. Atkins, Secretary of State