

B-Engrossed
House Bill 4094

Ordered by the Senate February 23
Including House Amendments dated February 11 and Senate Amendments
dated February 23

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

Exempts financial institutions that provide financial services to marijuana related businesses, researchers and laboratories from any criminal law of this state that has element that may be proven by substantiating that person provides financial services to person who lawfully possesses, delivers or manufactures marijuana or marijuana derived products.

Directs Oregon Liquor Control Commission, Oregon Health Authority and Department of Revenue to provide financial institutions with certain information related to licensed or registered marijuana related businesses, researchers and laboratories upon request.

Directs Department of Consumer and Business Services to study and report on any legislation or administrative action required to facilitate [*financing of*] **provision of depository and related financial services** to businesses that engage in production, processing or sale of marijuana and marijuana derived products.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to cannabis; and declaring an emergency.

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

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

5 (1) **“Deliver” has the meaning given that term in ORS 475.005.**

6 (2) **“Financial institution” means:**

7 (a) **A financial institution as defined in ORS 706.008.**

8 (b) **A trust company as defined in ORS 706.008.**

9 (c) **A money transmission business licensed under ORS 717.200 to 717.320, 717.900 and**
10 **717.905.**

11 (d) **An affiliate of an entity described in paragraph (a), (b) or (c) of this subsection.**

12 (e) **An employee or agent of an entity described in paragraph (a), (b) or (c) of this sub-**
13 **section.**

14 (3) **“Manufacture” has the meaning given that term in ORS 475.005.**

15 (4) **“Marijuana” has the meaning given that term in ORS 475.005.**

16 (5) **“Marijuana-derived product” means cannabinoid products, cannabinoid concentrates**
17 **and cannabinoid extracts, all as defined in ORS 475B.015.**

18 **SECTION 2. A financial institution that provides financial services customarily provided**
19 **by financial institutions pursuant to powers granted by ORS 717.200 to 717.320, 717.900 and**
20 **717.905, the Bank Act or by ORS chapter 723 to a marijuana processing site registered under**
21 **ORS 475B.435, a medical marijuana dispensary registered under ORS 475B.450, a marijuana**

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 producer that holds a license under ORS 475B.070, a marijuana processor that holds a license
2 under ORS 475B.090, a marijuana wholesaler that holds a license under ORS 475B.100, a
3 marijuana retailer that holds a license under ORS 475B.110, a laboratory that holds a license
4 under ORS 475B.560 or a person to whom a permit has been issued under ORS 475B.218 is
5 exempt from any criminal law of this state an element of which may be proven by substan-
6 tiating that a person provides financial services customarily provided by financial institutions
7 pursuant to powers granted by ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act or
8 ORS chapter 723 to a person who possesses, delivers or manufactures marijuana or
9 marijuana derived products.

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

14 (a) Whether a person with whom the financial institution is doing business holds a li-
15 cense under ORS 475B.070, 475B.090, 475B.100, 475B.110 or 475B.560 or a permit under ORS
16 475B.218;

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

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

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

21 (e) Whether the person is currently compliant with the provisions of ORS 475B.010 to
22 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted under ORS 475B.010
23 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655;

24 (f) Any past or pending violation by the person of a provision of ORS 475B.010 to 475B.395,
25 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.010 to
26 475B.395, 475B.550 to 475B.590 or 475B.600 to 475B.655; and

27 (g) Any penalty imposed upon the person for violating a provision of ORS 475B.010 to
28 475B.395, 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.010
29 to 475B.395, 475B.550 to 475B.590 or 475B.600 to 475B.655.

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

32 (3) The commission may charge a financial institution a reasonable fee to cover the ad-
33 ministrative costs of providing information under this section.

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

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

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

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

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

44 (e) Whether the person is currently compliant with the provisions of ORS 475B.400 to
45 475B.525, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted under ORS 475B.400

1 to 475B.525, 475B.550 to 475B.590 and 475B.600 to 475B.655;

2 (f) Any past or pending violation by the person of a provision of ORS 475B.400 to 475B.525,
3 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.400 to
4 475B.525, 475B.550 to 475B.590 or 475B.600 to 475B.655; and

5 (g) Any penalty imposed upon the person for violating a provision of ORS 475B.400 to
6 475B.525, 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.400
7 to 475B.525, 475B.550 to 475B.590 or 475B.600 to 475B.655.

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

10 (3) The authority may charge a financial institution a reasonable fee to cover the ad-
11 ministrative costs of providing information under this section.

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

16 (a) Whether the person is currently compliant with the provisions of ORS 475B.700 to
17 475B.760 and rules adopted under ORS 475B.700 to 475B.760;

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

20 (c) Any penalty imposed upon the person for violating a provision of ORS 475B.700 to
21 475B.760 or a rule adopted under ORS 475B.700 to 475B.760.

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

24 (3) The department may charge a financial institution a reasonable fee to cover the ad-
25 ministrative costs of providing information under this section.

26 **SECTION 6.** Information received by a financial institution under section 3, 4 or 5 of this
27 2016 Act is confidential for purposes of ORS 717.200 to 717.320, 717.900 and 717.905, the Bank
28 Act and ORS chapter 723. Except as otherwise required or permitted by the provisions of
29 ORS 192.583 to 192.607, 717.200 to 717.320, 717.900 and 717.905, or the Bank Act or ORS chapter
30 723, or by other state law or rule or federal law or regulation, a financial institution may not
31 make the information available to any person other than:

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

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

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

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

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

44 (2) As part of the study, the Department of Consumer and Business Services shall eval-
45 uate the BSA Expectations Regarding Marijuana-Related Businesses memorandum published

1 by the federal Department of the Treasury on February 14, 2014.

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

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

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

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

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