

Senate Bill 1598

Sponsored by Senator BURDICK, Representative LININGER; Senators BEYER, FERRIOLI, KRUSE, Representatives BUCKLEY, HELM, OLSON, WILSON

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**.

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, 475B.370, 475B.375 and
3 475B.500; and declaring an emergency.

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

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

9 Whereas this state desires to allow local governments to impose reasonable regulations on the
10 operations of businesses that produce marijuana because of the unique status of the crop; now,
11 therefore,

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

LAND USE LAWS

13
14
15
16 **SECTION 1. Section 2 of this 2016 Act is added to and made a part of ORS 475B.010 to**
17 **475B.395.**

18 **SECTION 2. The requirement under ORS 475B.063 to obtain a land use compatibility**
19 **statement as a condition of receiving a license under ORS 475B.070 does not apply to an ap-**
20 **plicant if:**

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

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

24 (3) **Each person responsible for a marijuana grow site located at the address first regis-**
25 **tered with the Oregon Health Authority under ORS 475B.420 before January 1, 2015; and**

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

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

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

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. ORS 475B.370 is amended to read:

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

- (a) A crop for the purposes of “farm use” as defined in ORS 215.203;
- (b) A crop for purposes of a “farm” and “farming practice,” both as defined in ORS 30.930;
- (c) A product of farm use as described in ORS 308A.062; and
- (d) The product of an agricultural activity for purposes of ORS 568.909.

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

- (a) A new dwelling used in conjunction with a marijuana crop;
- (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and
- (c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.
- (3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213, 215.283 and 475B.063.

(4) This section applies to:

- (a) Marijuana producers licensed under ORS 475B.070; and**
- (b) Persons registered under ORS 475B.420 and designated to produce marijuana by one or more persons who hold a valid registry identification card issued under ORS 475B.415.**

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

475B.340. (1) For purposes of this section, “reasonable regulations” includes:

- (a) Reasonable conditions on the manner in which a marijuana producer licensed under ORS 475B.070 may produce marijuana;
- (b) Reasonable conditions on the manner in which a marijuana processor licensed under ORS 475B.090 may process marijuana;
- (c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under ORS 475B.100 may sell marijuana at wholesale;
- (d) Reasonable limitations on the hours during which a marijuana retailer licensed under ORS 475B.110 may operate;
- (e) Reasonable conditions on the manner in which a marijuana retailer licensed under ORS 475B.110 may sell marijuana items;
- (f) Reasonable requirements related to the public’s access to a premises for which a license has been issued under ORS 475B.070, 475B.090, 475B.100 or 475B.110; and
- (g) Reasonable limitations on where a premises for which a license may be issued under ORS 475B.070, 475B.090, 475B.100 or 475B.110 may be located.

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

- (a) Adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475B.110 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475B.110.**
- (b) Adopt an ordinance after January 1, 2015, that imposes a setback requirement for an**

1 **agricultural building used to produce marijuana located on a premises for which a license**
 2 **has been issued under ORS 475B.070 if the agricultural building:**

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

5 **(B) Is located at an address where a marijuana grow site first registered with the Oregon**
 6 **Health Authority under ORS 475B.420 on or before January 1, 2015;**

7 **(C) Was used to produce marijuana pursuant to the provisions of ORS 475B.400 to**
 8 **475B.525 on or before January 1, 2015; and**

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

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

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

13 475B.500. (1) For purposes of this section, “reasonable regulations” includes:

14 (a) Reasonable limitations on the hours during which the marijuana grow site of a person des-
 15 ignated to produce marijuana by a registry identification cardholder, a marijuana processing site
 16 or a medical marijuana dispensary may operate;

17 (b) Reasonable conditions on the manner in which **the marijuana grow site of a person des-**
 18 **ignated to produce marijuana by a registry identification cardholder**, a marijuana processing
 19 site or **a** medical marijuana dispensary may transfer usable marijuana, medical cannabinoid pro-
 20 ducts, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds;

21 (c) Reasonable requirements related to the public’s access to the marijuana grow site of a person
 22 designated to produce marijuana by a registry identification cardholder, a marijuana processing site
 23 or a medical marijuana dispensary; and

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

27 (2) Notwithstanding ORS **30.935, 215.253 (1) or** 633.738, the governing body of a city or county
 28 may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites
 29 of persons designated to produce marijuana by registry identification cardholders, marijuana pro-
 30 cessing sites and medical marijuana dispensaries that are located in the area subject to the juris-
 31 diction of the city or county.

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

33 475B.375. *[ORS 475B.025, 475B.033, 475B.035, 475B.040, 475B.045, 475B.055, 475B.060, 475B.065,*
 34 *475B.068, 475B.070, 475B.090, 475B.100, 475B.110, 475B.130, 475B.160, 475B.165, 475B.170, 475B.180,*
 35 *475B.185, 475B.190, 475B.195, 475B.200, 475B.205, 475B.210, 475B.250, 475B.255, 475B.260, 475B.265,*
 36 *475B.270, 475B.275, 475B.280, 475B.298, 475B.300, 475B.305, 475B.310, 475B.315, 475B.320, 475B.325,*
 37 *475B.330, 475B.335, 475B.340, 475B.350, 475B.353, 475B.355, 475B.358, 475B.365, 475B.378, 475B.380*
 38 *and 475B.395:] Except for ORS 475B.370 and 475B.373, ORS 475B.010 to 475B.395:*

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

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

43
 44 **EXPUNGEMENT**
 45

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

8
 9 UNIT CAPTIONS

10
 11 SECTION 8. The unit captions used in this 2016 Act are provided only for the convenience
 12 of the reader and do not become part of the statutory law of this state or express any leg-
 13 islative intent in the enactment of this 2016 Act.

14
 15 EMERGENCY CLAUSE

16
 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.

20 _____