

D R A F T

SUMMARY

Allows testing of marijuana items by laboratories certified by United States Department of Agriculture for purpose related to applicable requirements, specifications and guidelines for testing marijuana items, as identified by Oregon Health Authority by rule.

Takes effect on 91st day after adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to cannabis; amending ORS 475B.555, 475B.560, 475B.565 and
3 475B.590 and section 9, chapter 71, Oregon Laws 2016, and section 2,
4 chapter 97, Oregon Laws 2016; and prescribing an effective date.

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

6 **SECTION 1.** ORS 475B.555 is amended to read:

7 475B.555. (1) As is necessary to protect the public health and safety, and
8 in consultation with the Oregon Liquor Control Commission and the State
9 Department of Agriculture, the Oregon Health Authority shall adopt rules:

10 (a) Establishing standards for testing marijuana items.

11 (b) Identifying appropriate tests for marijuana items, depending on the
12 type of marijuana item and the manner in which the marijuana item was
13 produced or processed, that are necessary to protect the public health and
14 safety, including, but not limited to, tests for:

15 (A) Microbiological contaminants;

16 (B) Pesticides;

17 (C) Other contaminants;

18 (D) Solvents or residual solvents; and

19 (E) Tetrahydrocannabinol and cannabidiol concentration.

1 (c) Establishing procedures for determining batch sizes and for sampling
2 usable marijuana, cannabinoid products and cannabinoid concentrates or
3 extracts.

4 (d) Establishing different minimum standards for different varieties of
5 usable marijuana and different types of cannabinoid products and
6 cannabinoid concentrates and extracts.

7 (2) In addition to the testing requirements established under subsection
8 (1) of this section, the authority or the commission may require cannabinoid
9 edibles to be tested in accordance with any applicable law of this state, or
10 any applicable rule adopted under a law of this state, related to the pro-
11 duction and processing of food products or commodities.

12 (3) In adopting rules under ORS 475B.400 to 475B.525, the authority may
13 require:

14 (a) A person responsible for a marijuana grow site under ORS 475B.420
15 to test usable marijuana before transferring the usable marijuana to a reg-
16 istrant other than an individual who holds a registry identification card
17 under ORS 475B.415; and

18 (b) A person processing marijuana to test cannabinoid products or
19 cannabinoid concentrates or extracts before transferring the cannabinoid
20 products or cannabinoid concentrates or extracts to a registrant other than
21 an individual who holds a registry identification card under ORS 475B.415.

22 (4) In adopting rules under ORS 475B.010 to 475B.395, the commission may
23 require:

24 (a) A marijuana producer that holds a license under ORS 475B.070 or a
25 marijuana wholesaler that holds a license under ORS 475B.100 to test usable
26 marijuana before selling or transferring the usable marijuana; and

27 (b) A marijuana processor that holds a license under ORS 475B.090 or a
28 marijuana wholesaler that holds a license under ORS 475B.100 to test
29 cannabinoid products or cannabinoid concentrates or extracts before selling
30 or transferring the cannabinoid products or cannabinoid concentrates or ex-
31 tracts.

1 (5) The authority and the commission may conduct random testing of
2 marijuana items for the purpose of determining whether a person subject to
3 testing under subsection (3) of this section or a licensee subject to testing
4 under subsection (4) of this section is in compliance with this section.

5 (6) In adopting rules to implement this section, the authority and com-
6 mission may not require a marijuana item to undergo the same test more
7 than once unless the marijuana item is processed into a different type of
8 marijuana item or the condition of the marijuana item has fundamentally
9 changed.

10 (7) The testing of marijuana items as required by this section must be
11 conducted by:

12 (a) A laboratory licensed by the commission under ORS 475B.560 and ac-
13 credited by the authority under ORS 475B.565[.]; **or**

14 (b) **A laboratory certified by the United States Department of Ag-**
15 **riculture for a purpose related to applicable requirements, specifica-**
16 **tions and guidelines for testing marijuana items, as identified by the**
17 **authority by rule.**

18 (8) In adopting rules under subsection (1) of this section, the authority:

19 (a) Shall consider the cost of a potential testing procedure and how that
20 cost will affect the cost to the ultimate consumer of the marijuana item; and

21 (b) May not adopt rules that are more restrictive than is reasonably
22 necessary to protect the public health and safety.

23 **SECTION 2.** ORS 475B.560 is amended to read:

24 475B.560. (1) A laboratory that conducts testing of marijuana items as
25 required by ORS 475B.555:

26 (a) Must have a license to operate at the premises at which the marijuana
27 items are tested[.]; **or**

28 (b) **Must be certified by the United States Department of Agricul-**
29 **ture for a purpose related to applicable requirements, specifications**
30 **and guidelines for testing marijuana items, as identified by the Oregon**
31 **Health Authority by rule.**

1 (2) For purposes of this section, the Oregon Liquor Control Commission
2 shall adopt rules establishing:

3 (a) Qualifications to be licensed under this section, including that an ap-
4 plicant for licensure under this section must be accredited by the [*Oregon*
5 *Health*] authority as described in ORS 475B.565;

6 (b) Processes for applying for and renewing a license under this section;

7 (c) Fees for applying for, receiving and renewing a license under this
8 section; and

9 (d) Procedures for:

10 (A) Tracking usable marijuana, cannabinoid products and cannabinoid
11 concentrates or extracts to be tested;

12 (B) Documenting and reporting test results; and

13 (C) Disposing of samples of usable marijuana, cannabinoid products and
14 cannabinoid concentrates or extracts that have been tested.

15 (3) A license issued under this section must be renewed annually.

16 (4) The commission may inspect premises licensed under this section to
17 ensure compliance with ORS 475B.550 to 475B.590 and rules adopted under
18 ORS 475B.550 to 475B.590.

19 (5) Subject to the applicable provisions of ORS chapter 183, the commis-
20 sion may refuse to issue or renew, or may suspend or revoke, a license issued
21 under this section for violation of:

22 (a) A provision of ORS 475B.550 to 475B.590 or a rule adopted under a
23 provision of ORS 475B.550 to 475B.590; or

24 (b) A provision of ORS 475B.010 to 475B.395 or a rule adopted under a
25 provision of ORS 475B.010 to 475B.395.

26 (6) Fees adopted under subsection (2)(c) of this section must be reasonably
27 calculated to pay the expenses incurred by the commission under ORS
28 475B.550 to 475B.590.

29 (7) Fee moneys collected under this section shall be deposited in the
30 Marijuana Control and Regulation Fund established under ORS 475B.240 and
31 are continuously appropriated to the commission for the purpose of carrying

1 out the duties, functions and powers of the commission under ORS 475B.550
2 to 475B.590.

3 **SECTION 3.** ORS 475B.565 is amended to read:

4 475B.565. (1) A laboratory that conducts testing of marijuana items as
5 required by ORS 475B.555:

6 (a) Must be accredited under ORS 438.605 to 438.620 and meet other
7 qualifications as established by the Oregon Health Authority under this
8 section[.]; **or**

9 (b) **Must be certified by the United States Department of Agricul-**
10 **ture for a purpose related to applicable requirements, specifications**
11 **and guidelines for testing marijuana items, as identified by the au-**
12 **thority by rule.**

13 (2) In addition to other qualifications required pursuant to ORS 438.605
14 to 438.620, the authority shall require an applicant for accreditation under
15 ORS 438.605 to 438.620 for purposes related to the testing of marijuana items
16 to:

17 (a) Complete an application;

18 (b) Undergo an onsite inspection; and

19 (c) Meet other applicable requirements, specifications and guidelines for
20 testing marijuana items, as [*determined to be appropriate*] **identified** by the
21 authority by rule.

22 (3) The authority may inspect premises licensed under ORS 475B.560 to
23 ensure compliance with ORS 475B.550 to 475B.590 and rules adopted under
24 ORS 475B.550 to 475B.590.

25 (4) Subject to the applicable provisions of ORS chapter 183, the authority
26 may refuse to issue or renew, or may suspend or revoke, a laboratory's ac-
27 creditation granted under this section and ORS 438.605 to 438.620 for vio-
28 lation of:

29 (a) A provision of ORS 475B.550 to 475B.590 or a rule adopted under a
30 provision of ORS 475B.550 to 475B.590; or

31 (b) A provision of ORS 475B.010 to 475B.395 or a rule adopted under a

1 provision of ORS 475B.010 to 475B.395.

2 (5) In establishing fees under ORS 438.620 for laboratories that test
3 marijuana items, the authority shall establish fees that are reasonably cal-
4 culated to pay the expenses incurred by the authority under this section and
5 ORS 438.605 to 439.620 in accrediting laboratories that test marijuana items.

6 **SECTION 4.** ORS 475B.590 is amended to read:

7 475B.590. A person [*who*] **that** holds a license under ORS 475B.560 **or that**
8 **is certified by the United States Department of Agriculture as de-**
9 **scribed in ORS 475B.555**, and an employee of or other person who performs
10 work for a person [*who*] **that** holds a license under ORS 475B.560 **or that**
11 **is certified by the United States Department of Agriculture as de-**
12 **scribed in ORS 475B.555**, are exempt from the criminal laws of this state
13 for possession, delivery or manufacture of marijuana, aiding and abetting
14 another in the possession, delivery or manufacture of marijuana, or any
15 other criminal offense in which possession, delivery or manufacture of
16 marijuana is an element, while performing activities related to testing as
17 described in ORS 475B.550 to 475B.590.

18 **SECTION 5.** Section 9, chapter 71, Oregon Laws 2016, is amended to read:

19 **Sec. 9.** (1) For purposes of this section, “consumption” means to ingest,
20 inhale or topically apply to the skin or hair.

21 (2) A laboratory licensed by the Oregon Liquor Control Commission under
22 ORS 475B.560 and accredited by the Oregon Health Authority pursuant to
23 ORS 475B.565, **or a laboratory certified by the United States Depart-**
24 **ment of Agriculture as described in ORS 475B.555**, may test industrial
25 hemp and industrial hemp commodities and products produced or processed
26 by a grower, handler or agricultural hemp seed producer registered under
27 ORS 571.305.

28 (3) A handler registered under ORS 571.305 may not sell an industrial
29 hemp commodity or product that is intended for human consumption unless
30 the commodity or product is tested by a laboratory described in subsection
31 (2) of this section to ensure that the commodity or product meets the re-

1 requirements adopted by the Oregon Health Authority under ORS 475B.555
2 (1)(a) and (b) and (2) for testing marijuana items.

3 (4) For purposes of this section, the State Department of Agriculture shall
4 adopt rules:

5 (a) Establishing protocols for the testing of industrial hemp commodities
6 and products; and

7 (b) Establishing procedures for determining batch sizes and for sampling
8 industrial hemp commodities and products.

9 **SECTION 6.** Section 2, chapter 97, Oregon Laws 2016, is amended to read:

10 **Sec. 2.** A financial institution that provides financial services customar-
11 ily provided by financial institutions pursuant to powers granted by ORS
12 717.200 to 717.320, 717.900 and 717.905, the Bank Act or by ORS chapter 723
13 to a marijuana processing site registered under ORS 475B.435, a medical
14 marijuana dispensary registered under ORS 475B.450, a marijuana producer
15 that holds a license under ORS 475B.070, a marijuana processor that holds
16 a license under ORS 475B.090, a marijuana wholesaler that holds a license
17 under ORS 475B.100, a marijuana retailer that holds a license under ORS
18 475B.110, a laboratory that holds a license under ORS 475B.560, **labora-**
19 **tory that is certified by the United States Department of Agriculture**
20 **as described in ORS 475B.555** or a person to whom a permit has been issued
21 under ORS 475B.218 is exempt from any criminal law of this state an element
22 of which may be proven by substantiating that a person provides financial
23 services customarily provided by financial institutions pursuant to powers
24 granted by ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act or ORS
25 chapter 723 to a person who possesses, delivers or manufactures marijuana
26 or marijuana derived products.

27 **SECTION 7. This 2017 Act takes effect on the 91st day after the date**
28 **on which the 2017 regular session of the Seventy-ninth Legislative**
29 **Assembly adjourns sine die.**

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