

**HOUSE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2355
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By JOINT COMMITTEE ON WAYS AND MEANS

July 4

1 On page 8 of the printed A-engrossed bill, delete lines 24 through 45.

2 Delete page 9.

3 On page 10, delete lines 1 and 2 and insert:

4 **“SECTION 9.** ORS 475.752, as amended by section 59, chapter 24, Oregon Laws 2016, and sec-
5 tion 26, chapter 21, Oregon Laws 2017 (Enrolled Senate Bill 302), is amended to read:

6 “475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is un-
7 lawful for any person to manufacture or deliver a controlled substance. Any person who violates this
8 subsection with respect to:

9 “(a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise
10 provided in ORS 475.886 and 475.890.

11 “(b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise
12 provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

13 “(c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise
14 provided in ORS 475.904 and 475.906.

15 “(d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

16 “(e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

17 “(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any
18 person to create or deliver a counterfeit substance. Any person who violates this subsection with
19 respect to:

20 “(a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

21 “(b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

22 “(c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

23 “(d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

24 “(e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

25 “(3) It is unlawful for any person knowingly or intentionally to possess a controlled substance
26 unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a
27 practitioner while acting in the course of professional practice, or except as otherwise authorized
28 by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with re-
29 spect to:

30 “(a) A controlled substance in Schedule I, is guilty of a Class [*B felony*] **A misdemeanor**, except
31 as otherwise provided in ORS **475.854, 475.874 and 475.894 and subsection (7) of this section.**

32 “(b) A controlled substance in Schedule II, is guilty of a Class [*C felony*] **A misdemeanor, ex-**
33 **cept as otherwise provided in ORS 475.824, 475.834 or 475.884 or subsection (8) of this**
34 **section.**

1 “(c) A controlled substance in Schedule III, is guilty of a Class A misdemeanor.

2 “(d) A controlled substance in Schedule IV, is guilty of a Class C misdemeanor.

3 “(e) A controlled substance in Schedule V, is guilty of a violation.

4 “(4) In any prosecution under this section for manufacture, possession or delivery of that plant
5 of the genus *Lophophora* commonly known as peyote, it is an affirmative defense that the peyote is
6 being used or is intended for use:

7 “(a) In connection with the good faith practice of a religious belief;

8 “(b) As directly associated with a religious practice; and

9 “(c) In a manner that is not dangerous to the health of the user or others who are in the
10 proximity of the user.

11 “(5) The affirmative defense created in subsection (4) of this section is not available to any
12 person who has possessed or delivered the peyote while incarcerated in a correctional facility in this
13 state.

14 “(6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or
15 delivers a controlled substance in Schedule IV and who thereby causes death to another person is
16 guilty of a Class C felony.

17 “(b) For purposes of this subsection, causation is established when the controlled substance
18 plays a substantial role in the death of the other person.

19 “(7) **Notwithstanding subsection (3)(a) of this section, unlawful possession of a controlled
20 substance in Schedule I is a Class B felony if:**

21 “(a) **The person possesses a usable quantity of the controlled substance and:**

22 “(A) **At the time of the possession, the person has a prior felony conviction;**

23 “(B) **At the time of the possession, the person has two or more prior convictions for
24 unlawful possession of a usable quantity of a controlled substance; or**

25 “(C) **The possession is a commercial drug offense under ORS 475.900 (1)(b); or**

26 “(b) **The person possesses:**

27 “(A) **Forty or more user units of a mixture or substance containing a detectable amount
28 of lysergic acid diethylamide; or**

29 “(B) **Twelve grams or more of a mixture or substance containing a detectable amount
30 of psilocybin or psilocin.**

31 “(8) **Notwithstanding subsection (3)(b) of this section, unlawful possession of a controlled
32 substance in Schedule II is a Class C felony if the person possesses a usable quantity of the
33 controlled substance and:**

34 “(a) **At the time of the possession, the person has a prior felony conviction;**

35 “(b) **At the time of the possession, the person has two or more prior convictions for un-
36 lawful possession of a usable quantity of a controlled substance; or**

37 “(c) **The possession is a commercial drug offense under ORS 475.900 (1)(b).”.**

38 On page 14, delete lines 5 through 10 and insert:

39 “(23) ‘Usable quantity’ means:

40 “(a) An amount of a controlled substance that is sufficient to physically weigh independent of
41 its packaging and that does not fall below the uncertainty of the measuring scale; or

42 “(b) An amount of a controlled substance that has not been deemed unweighable, as determined
43 by a Department of State Police forensic laboratory, due to the circumstances of the controlled
44 substance.”.

45 On page 20, after line 12, insert:

1 “**SECTION 26.** Notwithstanding any other provision of law, the General Fund appropri-
2 ation made to the Oregon Criminal Justice Commission by section 1, chapter _____, Oregon
3 Laws 2017 (Enrolled House Bill 5005), for the biennium beginning July 1, 2017, is increased
4 by \$347,351 for the purpose of implementing the provisions of this 2017 Act.

5 “**SECTION 27.** Notwithstanding any other provision of law, the General Fund appropri-
6 ation made to the Department of State Police by section 1 (4), chapter _____, Oregon Laws
7 2017 (Enrolled House Bill 5031), for the biennium beginning July 1, 2017, for administrative
8 services, agency support, criminal justice information services and office of the State Fire
9 Marshal, is increased by \$780,418 for the purpose of implementing the provisions of this 2017
10 Act.

11 “**SECTION 28.** Notwithstanding any other law limiting expenditures, the limitation on
12 expenditures established by section 2 (4), chapter _____, Oregon Laws 2017 (Enrolled House
13 Bill 5031), for the biennium beginning July 1, 2017, as the maximum limit for payment of ex-
14 penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding
15 lottery funds and federal funds, collected or received by the Department of State Police for
16 administrative services, agency support, criminal justice information services and office of
17 the State Fire Marshal, is increased by \$750,000 for the purpose of implementing the pro-
18 visions of this 2017 Act.

19 “**SECTION 29.** Notwithstanding any other law limiting expenditures, the limitation on
20 expenditures established by section 2 (1), chapter _____, Oregon Laws 2017 (Enrolled House
21 Bill 5034), for the biennium beginning July 1, 2017, as the maximum limit for payment of ex-
22 penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding
23 lottery funds and federal funds, collected or received by the Department of Public Safety
24 Standards and Training, for operations, is increased by \$431,330 for the purpose of imple-
25 menting the provisions of this 2017 Act.”.

26 In line 13, delete “26” and insert “30”.

27 In line 21, delete “27” and insert “31”.

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