

Senate Bill 1014

Sponsored by Senators FERRIOLI, BURDICK, PROZANSKI; Senators BEYER, KRUSE

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**.

Authorizes law enforcement agency to transfer marijuana items forfeited to agency as result of conviction to nonprofit medical marijuana dispensary. Authorizes nonprofit medical marijuana dispensary to dispense marijuana items received by law enforcement agency to registry identification cardholder with annual income at or below federal poverty guidelines or designated primary caregiver of that registry identification cardholder.

Authorizes Oregon Health Authority to adopt rules requiring person responsible for operating nonprofit medical marijuana dispensary to test marijuana items before dispensing.

A BILL FOR AN ACT

1
2 Relating to the forfeiture of marijuana items; amending ORS 475B.235, 475B.305, 475B.410 and
3 475B.555 and section 22, chapter 23, Oregon Laws 2016.

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

5 **SECTION 1.** ORS 475B.305 is amended to read:

6 475B.305. (1) When an officer arrests a person for violation of ORS 475B.010 to 475B.395, the
7 officer may take into possession all marijuana items and other property that the person so arrested
8 has in possession, or that is on the premises, that is apparently being used in violation of ORS
9 475B.010 to 475B.395.

10 (2) **Notwithstanding ORS 131.550 to 131.600 and ORS chapter 131A**, if a person arrested as
11 described in this section is convicted, and the court finds that the marijuana items and other prop-
12 erty have been used in violation of the laws of this state, **in accordance with Article XV, section**
13 **10, of the Oregon Constitution:**

14 (a) The marijuana items must be forfeited to an appropriate state or local law enforcement
15 agency and must be delivered by the court or officer, at the direction of the court, to the law
16 enforcement agency; and

17 (b) Subject to other applicable law, the other property must be forfeited to the Oregon Liquor
18 Control Commission, and must be delivered by the court or officer to the commission.

19 (3) **A law enforcement agency is authorized to transfer marijuana items it receives under**
20 **subsection (2)(a) of this section to a nonprofit medical marijuana dispensary as defined in**
21 **ORS 475B.410.**

22 [(3)] (4) The commission is authorized to destroy or make such other disposition of any property
23 it receives under subsection (2)(b) of this section as it considers to be in the public interest. In any
24 such case, all such property, including furniture, furnishings, equipment and facilities for the storing,
25 serving or using of marijuana items must be confiscated and forfeited to the state, and the clear
26 proceeds must be deposited with the State Treasury in the Common School Fund.

27 **SECTION 2.** ORS 475B.410 is amended to read:

28 475B.410. As used in ORS 475B.400 to 475B.525:

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 (1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary
 2 responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

3 (2) "Cannabinoid" means any of the chemical compounds that are the active constituents of
 4 marijuana.

5 (3) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from
 6 marijuana by:

7 (a) A mechanical extraction process;

8 (b) A chemical extraction process using a nonhydrocarbon-based solvent, such as vegetable
 9 glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

10 (c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided
 11 that the process does not involve the use of high heat or pressure; or

12 (d) Any other process identified by the Oregon Health Authority, in consultation with the
 13 Oregon Liquor Control Commission, by rule.

14 (4) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate,
 15 cannabinoid extract or dried leaves or flowers of marijuana have been incorporated.

16 (5) "Cannabinoid extract" means a substance obtained by separating cannabinoids from
 17 marijuana by:

18 (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane
 19 or propane;

20 (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the
 21 process uses high heat or pressure; or

22 (c) Any other process identified by the Oregon Health Authority, in consultation with the
 23 Oregon Liquor Control Commission, by rule.

24 (6) "Debilitating medical condition" means:

25 (a) Cancer, glaucoma, a degenerative or pervasive neurological condition, positive status for
 26 human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to
 27 the treatment of those medical conditions;

28 (b) A medical condition or treatment for a medical condition that produces, for a specific pa-
 29 tient, one or more of the following:

30 (A) Cachexia;

31 (B) Severe pain;

32 (C) Severe nausea;

33 (D) Seizures, including seizures caused by epilepsy; or

34 (E) Persistent muscle spasms, including spasms caused by multiple sclerosis;

35 (c) Post-traumatic stress disorder; or

36 (d) Any other medical condition or side effect related to the treatment of a medical condition
 37 adopted by the Oregon Health Authority by rule or approved by the authority pursuant to a petition
 38 filed under ORS 475B.517.

39 (7)(a) "Delivery" has the meaning given that term in ORS 475.005.

40 (b) "Delivery" does not include transfer of marijuana by a registry identification cardholder to
 41 another registry identification cardholder if no consideration is paid for the transfer.

42 (8)(a) "Designated primary caregiver" means an individual:

43 (A) Who is 18 years of age or older;

44 (B) Who has significant responsibility for managing the well-being of a person who has been
 45 diagnosed with a debilitating medical condition; and

1 (C) Who is designated as the person responsible for managing the well-being of a person who
 2 has been diagnosed with a debilitating medical condition on that person’s application for a registry
 3 identification card or in other written notification submitted to the authority.

4 (b) “Designated primary caregiver” does not include a person’s attending physician.

5 (9) “High heat” means a temperature exceeding 180 degrees.

6 (10) “Immature marijuana plant” means a marijuana plant that is not flowering.

7 (11)(a) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant
 8 Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

9 (b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300.

10 (12) “Marijuana grow site” means a location registered under ORS 475B.420 where marijuana
 11 is produced for use by a registry identification cardholder.

12 **(13) “Marijuana items” has the meaning given that term in ORS 475B.015.**

13 [(13)] **(14)** “Marijuana processing site” means a marijuana processing site registered under ORS
 14 475B.435 or a site for which an applicant has submitted an application for registration under ORS
 15 475B.435.

16 [(14)] **(15)** “Mature marijuana plant” means a marijuana plant that is not an immature marijuana
 17 plant.

18 [(15)(a)] **(16)(a)** “Medical cannabinoid product” means a cannabinoid edible and any other prod-
 19 uct intended for human consumption or use, including a product intended to be applied to a person’s
 20 skin or hair, that contains cannabinoids or dried leaves or flowers of marijuana.

21 (b) “Medical cannabinoid product” does not include:

22 (A) Usable marijuana by itself;

23 (B) A cannabinoid concentrate by itself;

24 (C) A cannabinoid extract by itself; or

25 (D) Industrial hemp, as defined in ORS 571.300.

26 [(16)] **(17)** “Medical marijuana dispensary” means a medical marijuana dispensary registered
 27 under ORS 475B.450 or a site for which an applicant has submitted an application for registration
 28 under ORS 475B.450.

29 [(17)] **(18)** “Medical use of marijuana” means the production, processing, possession, delivery or
 30 administration of marijuana, or use of paraphernalia used to administer marijuana, to mitigate the
 31 symptoms or effects of a debilitating medical condition.

32 **(19) “Nonprofit medical marijuana dispensary” means a medical marijuana dispensary**
 33 **registered under ORS 475B.450:**

34 **(a) That is owned by a nonprofit corporation organized under and subject to the pro-**
 35 **visions of ORS chapter 65; and**

36 **(b) That is authorized under section 22, chapter 23, Oregon Laws 2016, to dispense**
 37 **marijuana items, useable marijuana and immature marijuana plants.**

38 [(18)] **(20)** “Person designated to produce marijuana by a registry identification cardholder”
 39 means a person designated to produce marijuana by a registry identification cardholder under ORS
 40 475B.420 who produces marijuana for a registry identification cardholder at an address other than
 41 the address where the registry identification cardholder resides or at an address where more than
 42 12 mature marijuana plants are produced.

43 [(19)] **(21)** “Process” means the compounding or conversion of marijuana into medical
 44 cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

45 [(20)] **(22)** “Production” means:

1 (a) Planting, cultivating, growing, trimming or harvesting marijuana; or

2 (b) Drying marijuana leaves or flowers.

3 [(21)] (23) “Registry identification card” means a document issued by the Oregon Health Au-
 4 thority under ORS 475B.415 that identifies a person authorized to engage in the medical use of
 5 marijuana and, if the person has a designated primary caregiver under ORS 475B.418, the person’s
 6 designated primary caregiver.

7 [(22)] (24) “Registry identification cardholder” means a person to whom a registry identification
 8 card has been issued under ORS 475B.415.

9 [(23)(a)] (25)(a) “Usable marijuana” means the dried leaves and flowers of marijuana.

10 (b) “Usable marijuana” does not include:

11 (A) The seeds, stalks and roots of marijuana; or

12 (B) Waste material that is a by-product of producing marijuana.

13 [(24)] (26) “Written documentation” means a statement signed by the attending physician of a
 14 person diagnosed with a debilitating medical condition or copies of the person’s relevant medical
 15 records.

16 **SECTION 3.** Section 22, chapter 23, Oregon Laws 2016, is amended to read:

17 **Sec. 22.** (1) In addition to the powers granted nonprofit corporations under ORS 65.077 and
 18 65.081, a **nonprofit** medical marijuana dispensary: [*that is owned by a nonprofit corporation organ-*
 19 *ized under ORS chapter 65*]

20 (a) May receive by gift, devise or bequest:

21 [(a)] (A) Usable marijuana, immature marijuana plants and seeds from registry identification
 22 cardholders, designated primary caregivers, persons responsible for marijuana grow sites, persons
 23 who hold a license under ORS 475B.070 and persons who hold a certificate under ORS 475B.235; and

24 [(b)] (B) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from
 25 persons responsible for marijuana processing sites, persons who hold a license under ORS 475B.090
 26 and persons who hold a certificate under ORS 475B.235; **and**

27 **(b) May receive marijuana items that are transferred from a law enforcement agency as**
 28 **authorized under ORS 475B.305.**

29 (2) If a registry identification cardholder’s annual income is at or below the federal poverty
 30 guidelines, a **nonprofit** medical marijuana dispensary [*that is owned by a nonprofit corporation or-*
 31 *ganized under ORS chapter 65*] shall dispense **marijuana items**, usable marijuana[,] **and** immature
 32 marijuana plants[, *seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid*
 33 *extracts*] to that registry identification cardholder or the designated primary caregiver of that reg-
 34 istry identification cardholder free of charge or at a discounted price.

35 (3) The Oregon Health Authority shall adopt rules necessary to implement this section.

36 **SECTION 4.** ORS 475B.555 is amended to read:

37 475B.555. (1) As is necessary to protect the public health and safety, and in consultation with
 38 the Oregon Liquor Control Commission and the State Department of Agriculture, the Oregon Health
 39 Authority shall adopt rules:

40 (a) Establishing standards for testing marijuana items.

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

44 (A) Microbiological contaminants;

45 (B) Pesticides;

- 1 (C) Other contaminants;
- 2 (D) Solvents or residual solvents; and
- 3 (E) Tetrahydrocannabinol and cannabidiol concentration.

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

6 (d) Establishing different minimum standards for different varieties of usable marijuana and dif-
7 ferent types of cannabinoid products and cannabinoid concentrates and extracts.

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

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

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

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

20 **(c) A person responsible for operating a nonprofit medical marijuana dispensary to test**
21 **marijuana items and usable marijuana before dispensing marijuana items or usable**
22 **marijuana under section 22, chapter 23, Oregon Laws 2016.**

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

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

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

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

34 (6) In adopting rules to implement this section, the authority and commission may not require
35 a marijuana item to undergo the same test more than once unless the marijuana item is processed
36 into a different type of marijuana item or the condition of the marijuana item has fundamentally
37 changed.

38 (7) The testing of marijuana items as required by this section must be conducted by a laboratory
39 licensed by the commission under ORS 475B.560 and accredited by the authority under ORS
40 475B.565.

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

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

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

1 **SECTION 5.** ORS 475B.235, as amended by section 24, chapter 23, Oregon Laws 2016, and sec-
2 tion 12, chapter 24, Oregon Laws 2016, is amended to read:

3 475B.235. (1) The Oregon Liquor Control Commission, in consultation with the Oregon Health
4 Authority and the State Department of Agriculture, shall establish a program for the purpose of
5 identifying and certifying private and public researchers of cannabis.

6 (2)(a) The authority shall assist the commission in identifying candidates for certification under
7 this section with respect to potential medical research.

8 (b) The department shall assist the commission in identifying candidates for certification under
9 this section with respect to potential agricultural research.

10 (3) Subject to subsection (4) of this section, the commission shall adopt by rule or order:

11 (a) Qualifications for certification under this section;

12 (b) The term of a certificate issued under this section;

13 (c) Processes for applying for, receiving and renewing a certificate under this section;

14 (d) Procedures for tracking marijuana, usable marijuana, cannabinoid products, cannabinoid
15 concentrates and cannabinoid extracts received by and disposed or otherwise made use of by a
16 person certified under this section; and

17 (e) Procedures for disposing or otherwise making use of marijuana, usable marijuana,
18 cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

19 (4) In establishing qualifications under subsection (3) of this section, the commission shall con-
20 sider the following:

21 (a) A research applicant's access to funding and the overall cost of the proposed research;

22 (b) The overall benefit of an applicant's proposed research to this state's cannabis industry or
23 to public health and safety; and

24 (c) Legal barriers to conducting the proposed research or legal risks associated with conducting
25 the proposed research.

26 (5) In adopting procedures under subsection (3)(d) and (e) of this section with respect to making
27 use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and
28 cannabinoid extracts, the commission shall also adopt procedures by which a person certified under
29 this section may transfer limited amounts of marijuana, usable marijuana, cannabinoid products,
30 cannabinoid concentrates and cannabinoid extracts to another person certified under this section
31 or to a premises for which a license has been issued under ORS 475B.070, 475B.090, 475B.100 or
32 475B.110.

33 (6) In adopting procedures under subsection (3)(d) and (e) of this section with respect to making
34 use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and
35 cannabinoid extracts, the commission shall also adopt procedures by which a person certified under
36 this section may give, devise or bequest **marijuana items**, usable marijuana[,] **and** immature
37 marijuana plants[, *seeds, cannabinoid products, cannabinoid concentrates and cannabinoid extracts*] to
38 a **nonprofit** medical marijuana dispensary [*registered with the authority under ORS 475B.450 and*
39 *owned by a nonprofit corporation organized under ORS chapter 65 for purposes described in section*
40 *22, chapter 23, Oregon Laws 2016*] **as defined in ORS 475B.410.**

41 (7) A person certified under this section:

42 (a) May receive marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates
43 and cannabinoid extracts from a licensee or a registrant under ORS 475B.400 to 475B.525; and

44 (b) May not sell or otherwise transfer marijuana, usable marijuana, cannabinoid products,
45 cannabinoid concentrates or cannabinoid extracts to any other person, except as provided in this

1 section and rules adopted by the commission under this section.

2 (8) Except as otherwise provided by the commission by rule, rules adopted by the commission
3 for the purpose of administering and enforcing ORS 475B.010 to 475B.395 with respect to licensees
4 and licensee representatives apply to persons certified under this section and persons employed by
5 or who otherwise perform work for persons certified under this section.

6 (9) A person who is certified under this section, and an employee of or other person who per-
7 forms work for a person certified under this section, is exempt from the criminal laws of this state
8 for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession,
9 delivery and manufacture of marijuana, or any other criminal offense in which possession, delivery
10 or manufacture of marijuana is an element, while performing activities related to conducting re-
11 search as described in this section.

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