

Requested by Senator FERRIOLI

**PROPOSED AMENDMENTS TO
SENATE BILL 56**

1 On page 1 of the printed bill, line 2, delete “and declaring an
2 emergency” and insert “creating new provisions; amending ORS 475B.700 and
3 475B.710; and prescribing an effective date”.

4 Delete lines 4 through 29 and delete page 2 and insert:

5 **“SECTION 1. Section 2 of this 2017 Act is added to and made a part
6 of ORS 475B.700 to 475B.760.**

7 **“SECTION 2. (1) A refund for taxes imposed as described in ORS
8 475B.705 may be claimed as described in this section by:**

9 **“(a) A marijuana retailer located in this state for marijuana items
10 that are produced by a marijuana producer, or processed by a
11 marijuana processor, or both, that is located on tribal trust land and
12 licensed by the governing body of a federally recognized Indian tribe
13 that has entered into an agreement with the Governor, or the
14 Governor’s designee, pursuant to section 35, chapter 24, Oregon Laws
15 2016, provided that the licensing of the marijuana producer or
16 marijuana processor comports with the agreement; or**

17 **“(b) An agent of a marijuana retailer described in paragraph (a) of
18 this subsection that is claiming the refund for the marijuana retailer.**

19 **“(2) Subject to subsections (5) and (6) of this section, the refund
20 described in subsection (1) of this section must equal:**

21 **“(a) Fifty percent of the tax imposed on the marijuana item if the**

1 **marijuana item requires processing and:**

2 **“(A) The marijuana item was produced by a marijuana producer**
3 **described in subsection (1) of this section, but was not processed by a**
4 **marijuana processor described in subsection (1) of this section; or**

5 **“(B) The marijuana item was processed by a marijuana processor**
6 **described in subsection (1) of this section, but was not produced by a**
7 **marijuana producer described in subsection (1) of this section.**

8 **“(b) One hundred percent of the tax imposed on the marijuana item**
9 **if the marijuana item:**

10 **“(A) Does not require processing and was produced by a marijuana**
11 **producer described in subsection (1) of this section; or**

12 **“(B) Requires processing and was produced by a marijuana producer**
13 **described in subsection (1) of this section and processed by a**
14 **marijuana processor described in subsection (1) of this section.**

15 **“(3) To claim a refund under this section, a marijuana retailer or**
16 **agent described in subsection (1) of this section must submit a claim**
17 **to the Department of Revenue in a form and manner prescribed by the**
18 **department.**

19 **“(4) A claim for a refund described in subsection (1) of this section**
20 **must be made by the end of the calendar year after the year in which**
21 **the sale of the marijuana item occurred.**

22 **“(5) Payment of a refund described in subsection (1) of this section**
23 **may not exceed the amount of any tax liability of a marijuana item**
24 **created by the imposition of a tax on the marijuana item by the gov-**
25 **erning body of the federally recognized Indian tribe with jurisdiction**
26 **over the tribal trust land on which the production or processing of the**
27 **marijuana item occurred.**

28 **“(6) Notwithstanding ORS 475B.710, payment of a refund described**
29 **in subsection (1) of this section may be for an amount that is greater**
30 **than \$1,000.**

1 **“SECTION 3.** ORS 475B.700 is amended to read:

2 “475B.700. As used in ORS 475B.700 to 475B.760:

3 “(1) ‘Cannabinoid concentrate,’ ‘cannabinoid edible,’ ‘cannabinoid
4 extract,’ ‘cannabinoid product,’ ‘consumer,’ ‘immature marijuana plant,’
5 ‘marijuana flowers,’ ‘marijuana items,’ ‘marijuana leaves,’ **‘marijuana**
6 **processor,’ ‘marijuana producer’** and ‘marijuana retailer’ have the
7 meanings given those terms in ORS 475B.015.

8 “(2) ‘Retail sale’ means any transfer, exchange, gift or barter of a
9 marijuana item by any person to a consumer.

10 “(3) ‘Retail sales price’ means the price paid for a marijuana item, ex-
11 cluding tax, to a marijuana retailer by or on behalf of a consumer of the
12 marijuana item.

13 **“SECTION 4.** ORS 475B.710, as amended by section 7, chapter 91, Oregon
14 Laws 2016, is amended to read:

15 “475B.710. (1) Except as otherwise provided in ORS 475B.700 to 475B.760,
16 the tax imposed upon the consumer under ORS 475B.705 shall be collected
17 at the point of sale and remitted by each marijuana retailer that engages in
18 the retail sale of marijuana items. The tax is **considered** a tax upon the
19 marijuana retailer that is required to collect the tax, and the marijuana
20 retailer is **considered** a taxpayer.

21 “(2) The marijuana retailer shall file a return to the Department of Rev-
22 enue on or before the last day of January, April, July and October of each
23 year for the previous calendar quarter.

24 “(3) The marijuana retailer shall pay the tax to the department in the
25 form and manner prescribed by the department, but not later than with each
26 quarterly return, without regard to an extension granted under subsection
27 (5) of this section.

28 “(4) Marijuana retailers shall file the returns required under this section
29 regardless of whether any tax is owed.

30 “(5) For good cause, the department may extend the time for filing a re-

1 turn under this section. The extension may be granted at any time if a
2 written request is filed with the department during or prior to the period for
3 which the extension may be granted. The department may not grant an ex-
4 tension of more than 30 days.

5 “(6) Interest shall be added at the rate established under ORS 305.220 for
6 each month, or fraction of a month, from the time the return was originally
7 required to be filed to the time of payment.

8 “(7) If a marijuana retailer fails to file a return or pay the tax as required
9 by this section, the department shall impose a penalty in the manner pro-
10 vided in ORS 314.400.

11 “(8) Except as provided in subsections (9) and (10) of this section, the
12 period prescribed for the department to allow or make a refund of any
13 overpayment of tax paid under ORS 475B.700 to 475B.760 is as provided in
14 ORS 314.415.

15 “(9)(a) The department shall first apply any overpayment of tax by a
16 marijuana retailer to any marijuana tax that is owed by the marijuana
17 retailer.

18 “(b) If after any offset against any delinquent amount the overpayment
19 of tax remains greater than \$1,000, the remaining refund shall be applied as
20 a credit against the next subsequent calendar quarter as an estimated pay-
21 ment.

22 “(10) The department may not make a refund of, or credit, any overpay-
23 ment of tax under ORS 475B.700 to 475B.760 that was credited to the account
24 of a marijuana retailer under subsection (9)(b) of this section if the return
25 for that tax period is not filed within three years after the due date of that
26 return.

27 **“SECTION 5. This 2017 Act takes effect on the 91st day after the**
28 **date on which the 2017 regular session of the Seventy-ninth Legislative**
29 **Assembly adjourns sine die.”**

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