

Requested by Senator BURDICK

**PROPOSED AMENDMENTS TO
HOUSE BILL 2197**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating
2 new provisions; amending ORS 475B.700 and 475B.710;”.

3 Delete lines 4 through 29 and delete pages 2 and 3 and insert:

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

6 **“SECTION 2. (1) The Department of Revenue may enter into an
7 agreement with the governing body of a federally recognized Indian
8 tribe that is qualified as described in this section for the purpose of
9 making rebate payments for an estimate of the tax on marijuana items
10 imposed under ORS 475B.705 as described in this section.**

11 **“(2) The governing body of a federally recognized Indian tribe is
12 qualified to enter into an agreement under this section if the govern-
13 ing body has entered into an agreement with the Governor, or the
14 Governor’s designee, pursuant to section 35, chapter 24, Oregon Laws
15 2016.**

16 **“(3) The department shall provide rebates under this section for
17 usable marijuana sold by a marijuana retailer that holds a license is-
18 sued under ORS 475B.110 that is produced by a marijuana producer
19 that is located on tribal trust land and licensed by the governing body
20 of a federally recognized Indian tribe that has entered into an agree-
21 ment with the Governor, or the Governor’s designee, pursuant to**

1 section 35, chapter 24, Oregon Laws 2016, provided that the licensing
2 of the marijuana producer comports with the agreement.

3 “(4) Payments made by the department to a federally recognized
4 Indian tribe should represent the department’s estimate of the amount
5 of revenue generated under ORS 475B.705 attributable to marijuana
6 items produced by a marijuana producer that is located on tribal trust
7 land and licensed by the governing body of a federally recognized In-
8 dian tribe that has entered into an agreement with the Governor, or
9 the Governor’s designee, pursuant to section 35, chapter 24, Oregon
10 Laws 2016, provided that the licensing of the marijuana producer
11 comports with the agreement.

12 “(5) There is continuously appropriated from the suspense account
13 established under ORS 475B.760 the amounts necessary to make re-
14 bates pursuant to an agreement entered into under this section.

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

16 “475B.700. As used in ORS 475B.700 to 475B.760:

17 “(1) ‘Cannabinoid concentrate,’ ‘cannabinoid edible,’ ‘cannabinoid
18 extract,’ ‘cannabinoid product,’ ‘consumer,’ ‘immature marijuana plant,’
19 ‘marijuana flowers,’ ‘marijuana items,’ ‘marijuana leaves,’ **‘marijuana pro-**
20 **ducer,’** [and] ‘marijuana retailer’ **and ‘usable marijuana’** have the
21 meanings given those terms in ORS 475B.015.

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

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

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

29 “475B.710. (1) Except as otherwise provided in ORS 475B.700 to 475B.760,
30 the tax imposed upon the consumer under ORS 475B.705 shall be collected

1 at the point of sale and remitted by each marijuana retailer that engages in
2 the retail sale of marijuana items. The tax is **considered** a tax upon the
3 marijuana retailer that is required to collect the tax, and the marijuana
4 retailer is **considered** a taxpayer.

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

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

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

14 “(5) For good cause, the department may extend the time for filing a re-
15 turn under this section. The extension may be granted at any time if a
16 written request is filed with the department during or prior to the period for
17 which the extension may be granted. The department may not grant an ex-
18 tension of more than 30 days.

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

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

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

29 “(9)(a) The department shall first apply any overpayment of tax by a
30 marijuana retailer to any marijuana tax that is owed by the marijuana

1 retailer.

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

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

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

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