

Requested by Senator FERRIOLI

**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 **“(a) Usable marijuana sold by a marijuana retailer that holds a li-
18 cense issued under ORS 475B.110 that is produced by a marijuana
19 producer that is located on tribal trust land and licensed by the gov-
20 erning body of a federally recognized Indian tribe that has entered into
21 an agreement with the Governor, or the Governor’s designee, pursuant**

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

3 “(b) Cannabinoid concentrates, cannabinoid extracts or cannabinoid
4 products sold by a marijuana retailer that holds a license issued under
5 ORS 475B.110 that are processed by a marijuana processor that is lo-
6 cated on tribal trust land and licensed by the governing body of a
7 federally recognized Indian tribe that has entered into an agreement
8 with the Governor, or the Governor’s designee, pursuant to section 35,
9 chapter 24, Oregon Laws 2016, provided that the licensing of the
10 marijuana processor comports with the agreement.

11 “(4) Payments made by the department to a federally recognized
12 Indian tribe should represent the department’s estimate of the amount
13 of revenue generated under ORS 475B.705 attributable to marijuana
14 items:

15 “(a) Produced by a marijuana producer that is located on tribal
16 trust land and licensed by the governing body of a federally recognized
17 Indian tribe that has entered into an agreement with the Governor,
18 or the Governor’s designee, pursuant to section 35, chapter 24, Oregon
19 Laws 2016, provided that the licensing of the marijuana producer
20 comports with the agreement; or

21 “(b) Processed by a marijuana processor that is located on tribal
22 trust land and licensed by the governing body of a federally recognized
23 Indian tribe that has entered into an agreement with the Governor,
24 or the Governor’s designee, pursuant to section 35, chapter 24, Oregon
25 Laws 2016, provided that the licensing of the marijuana processor
26 comports with the agreement.

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

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

1 “475B.700. As used in ORS 475B.700 to 475B.760:

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

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

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

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

14 “475B.710. (1) Except as otherwise provided in ORS 475B.700 to 475B.760,
15 the tax imposed upon the consumer under ORS 475B.705 shall be collected
16 at the point of sale and remitted by each marijuana retailer that engages in
17 the retail sale of marijuana items. The tax is **considered** a tax upon the
18 marijuana retailer that is required to collect the tax, and the marijuana
19 retailer is **considered** a taxpayer.

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

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

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

29 “(5) For good cause, the department may extend the time for filing a re-
30 turn under this section. The extension may be granted at any time if a

1 written request is filed with the department during or prior to the period for
2 which the extension may be granted. The department may not grant an ex-
3 tension of more than 30 days.

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

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

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

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

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

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

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

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