

SB 56-40
(LC 685)
6/6/17 (JAS/ps)

Requested by JOINT COMMITTEE ON MARIJUANA REGULATION

**PROPOSED AMENDMENTS TO
SENATE BILL 56
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

1 On page 1 of the printed bill, line 2, delete “and declaring an
2 emergency” and insert “creating new provisions; amending ORS 471.775,
3 475B.045, 475B.110, 475B.135 and 475B.210 and section 2, chapter 18, Oregon
4 Laws 2017 (Enrolled Senate Bill 863); repealing section 17, chapter _____,
5 Oregon Laws 2017 (Enrolled House Bill 2198); and declaring an emergency”.

6 Delete lines 4 through 29 and delete page 2 and insert:
7

8 **“IMMEDIATE SUSPENSION OF LICENSE FOR
9 DIVERTING MARIJUANA ITEMS INTO BLACK MARKET**

10
11 **“SECTION 1. Section 2 of this 2017 Act is added to and made a part
12 of ORS 475B.010 to 475B.395.**

13 **“SECTION 2. (1) The Legislative Assembly finds and declares that
14 the unregulated commerce of marijuana items constitutes a serious
15 danger to public health and safety.**

16 **“(2) In addition to any other disciplinary action available to the
17 Oregon Liquor Control Commission under ORS 475B.010 to 475B.395,
18 the commission may immediately restrict, suspend or refuse to renew
19 a license issued under ORS 475B.010 to 475B.395 if circumstances create
20 probable cause for the commission to conclude that a licensee has**

1 purchased or received a marijuana item from an unlicensed source or
2 that a licensee has sold, stored or transferred a marijuana item in a
3 manner that is not permitted by the licensee’s license.

4
5 **“LOCAL GOVERNMENT VERIFICATION**
6 **OF LAWFUL ACTIVITY**

7
8 **“SECTION 3.** Section 4 of this 2017 Act is added to and made a part
9 of ORS 475B.010 to 475B.395.

10 **“SECTION 4.** The Oregon Liquor Control Commission shall main-
11 tain a telephone hotline for the purpose of informing a person desig-
12 nated by a city or a county to contact the commission about whether
13 an address is the location of a premises for which a license has been
14 issued under ORS 475B.010 to 475B.395 or is the location of a premises
15 for which an application for licensure has been submitted under ORS
16 475B.040.

17 **“SECTION 5.** Section 6 of this 2017 Act is added to and made a part
18 of ORS 475B.400 to 475B.525.

19 **“SECTION 6.** (1) The Oregon Health Authority shall maintain a
20 telephone hotline for the purpose of informing a person designated by
21 a city or a county to contact the authority about whether an address
22 is the location of a marijuana grow site, marijuana processing site or
23 medical marijuana dispensary or is the proposed location of a
24 marijuana grow site, marijuana processing site or medical marijuana
25 dispensary.

26 **“(2)** The authority may disclose the address of a marijuana grow
27 site for purposes of this section notwithstanding ORS 475B.460.

28
29 **“PROCESSING BY SMALL PRODUCERS**

1 **“SECTION 7. Section 8 of this 2017 Act is added to and made a part**
2 **of ORS 475B.010 to 475B.395.**

3 **“SECTION 8. (1) Notwithstanding ORS 475B.090, a marijuana pro-**
4 **ducer that holds a license issued under ORS 475B.070 and has a mature**
5 **marijuana plant grow canopy described in subsection (2) of this section**
6 **may process marijuana into a cannabinoid concentrate if the process**
7 **involves separating cannabinoids from marijuana by:**

8 **“(a) A mechanical process; or**

9 **“(b) An extraction process using water as the solvent.**

10 **“(2) To be eligible to process marijuana into a cannabinoid concen-**
11 **trate under this section, a marijuana producer must have a mature**
12 **marijuana plant grow canopy, as restricted by the Oregon Liquor**
13 **Control Commission under ORS 475B.075, that does not exceed:**

14 **“(a) For marijuana grown outdoors, 5,000 square feet; or**

15 **“(b) For marijuana grown indoors, 1,250 square feet.**

16 **“(3) The processing of marijuana under this section must comport**
17 **with any reasonable condition adopted under ORS 475B.340 that is im-**
18 **posed on the manner in which a marijuana processor licensed under**
19 **ORS 475B.090 may process marijuana.**

20 **“SECTION 9. ORS 475B.135, as amended by section 60, chapter __,**
21 **Oregon Laws 2017 (Enrolled Senate Bill 1057), is amended to read:**

22 **“475B.135. As is necessary to protect the public health and safety, the**
23 **Oregon Liquor Control Commission may require a premises licensed under**
24 **ORS 475B.010 to 475B.395 to be segregated into separate areas:**

25 **“(1) For conducting the activities permitted under each license, if the**
26 **licensee holds more than one license issued under ORS 475B.010 to 475B.395**
27 **for the same premises; [or]**

28 **“(2) For conducting activities related to processing marijuana into dif-**
29 **ferent types of cannabinoid products, cannabinoid concentrates or**
30 **cannabinoid extracts, if the licensee is a marijuana processor that holds a**

1 license issued under ORS 475B.090 and that processes marijuana into any
2 combination of different types of products, concentrates and extracts; or

3 **“(3) For producing marijuana and processing marijuana as de-**
4 **scribed in section 8 of this 2017 Act if the licensee is a marijuana pro-**
5 **ducer that holds a license issued under ORS 475B.070 and that**
6 **processes marijuana as described in section 8 of this 2017 Act.**

7

8 **“IMMATURE MARIJUANA PLANT LIMITATIONS**

9

10 **“SECTION 10. The limitations on the number of immature**
11 **marijuana plants that may be located at an address as set forth in ORS**
12 **475B.428 (3) to (6) do not apply, except as provided by the Oregon Li-**
13 **quor Control Commission by rule, to a premises for which an applica-**
14 **tion has been made under ORS 475B.040 on or before the effective date**
15 **of this 2017 Act for a license to produce marijuana under ORS 475B.070**
16 **until the license is issued or the application is denied.**

17

18 **“EXCLUSIVELY MEDICAL LICENSEES**

19

20 **“SECTION 11. If a city or county enacts or has enacted an ordi-**
21 **nance prohibiting or allowing marijuana processing sites registered**
22 **under ORS 475B.435 or medical marijuana dispensaries registered un-**
23 **der ORS 475B.450, the governing body of the city or the county may**
24 **amend the ordinance, without referring the amendment to the electors**
25 **of the city or county under ORS 475B.800, to prohibit or allow a**
26 **licensee, as defined in ORS 475B.015, that has been designated an ex-**
27 **clusively medical licensee under section 24, 25, 26 or 27, chapter __,**
28 **Oregon Laws 2017 (Enrolled Senate Bill 1057).**

29 **“SECTION 11a. If House Bill 2198 becomes law, section 17, chapter**
30 **_____, Oregon Laws 2017 (Enrolled House Bill 2198) (amending ORS**

1 **475B.460), is repealed.**

2
3 **“AMENDMENTS TO STATUTES AND SESSION LAW**

4
5 **“SECTION 12.** ORS 475B.045 is amended to read:

6 “475B.045. (1) The Oregon Liquor Control Commission may not license an
7 applicant under the provisions of ORS 475B.010 to 475B.395 if the applicant
8 is under 21 years of age.

9 “(2) The commission may refuse to **issue a license or may issue a re-**
10 **stricted license to** an applicant under the provisions of ORS 475B.010 to
11 475B.395 if the commission [*has reasonable ground to believe*] **makes a**
12 **finding** that the applicant:

13 “(a) Is in the habit of using alcoholic beverages, habit-forming drugs,
14 marijuana or controlled substances to excess.

15 “(b) Has made false statements to the commission.

16 “(c) Is incompetent or physically unable to carry on the management of
17 the establishment proposed to be licensed.

18 “(d) Has been convicted of violating a [*general or local law of this state*
19 *or another state, or of violating a federal law,*] **federal law, state law or**
20 **local ordinance** if the conviction is substantially related to the fitness and
21 ability of the applicant to lawfully carry out activities under the license.

22 “(e) Is not of good repute and moral character.

23 “(f) Does not have a good record of compliance with ORS 475B.010 to
24 475B.395 or any rule [*of the commission*] adopted under ORS 475B.010 to
25 475B.395.

26 “(g) Is not the legitimate owner of the [*business*] **premises** proposed to
27 be licensed, or **has not disclosed that** other persons have ownership inter-
28 ests in the [*business that have not been disclosed.*] **premises proposed to**
29 **be licensed.**

30 “(h) [*Is not possessed of or*] Has not demonstrated financial responsibility

1 sufficient to adequately meet the requirements of the [*business*] **premises**
2 proposed to be licensed.

3 “(i) Is unable to understand the laws of this state relating to marijuana
4 **items** or the rules [*of the commission relating to marijuana*] **adopted under**
5 **ORS 475B.010 to 475B.395.**

6 “(3) Notwithstanding subsection (2)(d) of this section, in determining
7 whether [*the commission may refuse*] to **issue a license or a restricted li-**
8 **cense to** an applicant, the commission may not consider the prior conviction
9 of the applicant or any owner, director, officer, manager, employee, agent or
10 other representative of the applicant for:

11 “(a) The manufacture of marijuana, if:

12 “(A) The date of the conviction is two or more years before the date of
13 the application; and

14 “(B) The person has not been convicted more than once for the manufac-
15 ture or delivery of marijuana;

16 “(b) The delivery of marijuana to a person 21 years of age or older, if:

17 “(A) The date of the conviction is two or more years before the date of
18 the application; and

19 “(B) The person has not been convicted more than once for the manufac-
20 ture or delivery of marijuana; or

21 “(c) The possession of marijuana.

22 “**SECTION 13.** ORS 475B.110, as amended by section 4, chapter 24,
23 Oregon Laws 2016, and section 10, chapter 83, Oregon Laws 2016, is amended
24 to read:

25 “475B.110. (1) The retail sale of marijuana items is subject to regulation
26 by the Oregon Liquor Control Commission.

27 “(2) A marijuana retailer must have a retail license issued by the com-
28 mission for the premises at which marijuana items are sold. To hold a retail
29 license under this section, a marijuana retailer:

30 “(a) Must apply for a license in the manner described in ORS 475B.040;

1 “(b) Must provide proof that the applicant is 21 years of age or older;

2 “(c) May not be located in an area that is zoned exclusively for residen-
3 tial use;

4 “(d) Except as provided in section 29b, chapter 83, Oregon Laws 2016, may
5 not be located within 1,000 feet of:

6 “(A) A public elementary or secondary school for which attendance is
7 compulsory under ORS 339.020; or

8 “(B) A private or parochial elementary or secondary school, teaching
9 children as described in ORS 339.030 (1)(a); and

10 “(e) Must meet the requirements of any rule adopted by the commission
11 under subsection (3) of this section.

12 “(3) The commission shall adopt rules that:

13 “(a) Require a marijuana retailer to annually renew a license issued un-
14 der this section;

15 “(b) Establish application, licensure and renewal of licensure fees for
16 marijuana retailers;

17 “(c) Require marijuana items sold by a marijuana retailer to be tested in
18 accordance with ORS 475B.555;

19 “(d) **Notwithstanding ORS 475B.160, allow a marijuana retailer to**
20 **deliver marijuana items to another marijuana retailer that is owned**
21 **by the same or substantially the same persons;**

22 “[*d*] (e) Subject to the limitations and privileges described in section 5
23 (4), chapter 83, Oregon Laws 2016, allow a marijuana retailer registered un-
24 der section 5, chapter 83, Oregon Laws 2016, to sell medical grade
25 cannabinoid products, cannabinoid concentrates and cannabinoid extracts at
26 retail in the same manner that rules adopted under ORS 475B.010 to 475B.395
27 allow a marijuana retailer to sell general use cannabinoid products,
28 cannabinoid concentrates and cannabinoid extracts at retail, excepting those
29 circumstances where differentiating between the sale of medical grade
30 cannabinoid products, cannabinoid concentrates and cannabinoid extracts

1 and the sale of general use cannabinoid products, cannabinoid concentrates
2 and cannabinoid extracts is necessary to protect the public health and safety;
3 and

4 “[~~(e)~~] (f) Require a marijuana retailer to meet any public health and
5 safety standards and industry best practices established by the commission
6 by rule.

7 “(4) Fees adopted under subsection (3)(b) of this section:

8 “(a) May not exceed, together with other fees collected under ORS
9 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395; and

10 “(b) Shall be deposited in the Marijuana Control and Regulation Fund
11 established under ORS 475B.240.

12 “**SECTION 14.** ORS 475B.210 is amended to read:

13 “475B.210. The Oregon Liquor Control Commission may revoke [*or*], sus-
14 pend **or restrict** a license issued under ORS 475B.010 to 475B.395 **or require**
15 **a licensee or licensee representative to undergo training** if the commis-
16 sion finds or has reasonable ground to believe any of the following to be
17 true:

18 “(1) That the licensee **or licensee representative**:

19 “(a) Has violated a provision of ORS 475B.010 to 475B.395 or a rule [*of the*
20 *commission*] adopted under ORS 475B.010 to 475B.395.

21 “(b) Has made any false representation or statement to the commission
22 in order to induce or prevent action by the commission.

23 “(c) Is insolvent or incompetent or physically unable to carry on the
24 management of the establishment of the licensee.

25 “(d) Is in the habit of using alcoholic liquor, habit-forming drugs,
26 marijuana or controlled substances to excess.

27 “(e) Has misrepresented to a customer or the public any marijuana items
28 sold by the licensee **or licensee representative**.

29 “(f) Since the [*granting*] **issuance** of the license, has been convicted of a
30 felony, of violating any of the marijuana laws of this state, general or local,

1 or of any misdemeanor or violation of any municipal ordinance committed
2 on the [*licensed*] premises **for which the license has been issued.**

3 “(2) That there is any other reason that, in the opinion of the commission,
4 based on public convenience or necessity, warrants [*canceling*] **revoking,**
5 [*or*] suspending **or restricting** the license.

6 **“SECTION 15.** If Senate Bill 1057 becomes law, ORS 471.775, as amended
7 by section 20, chapter 24, Oregon Laws 2016, and section 110, chapter 21,
8 Oregon Laws 2017 (Enrolled Senate Bill 302), is amended to read:

9 “471.775. (1) The provisions of ORS 183.440 shall apply to subpoenas issued
10 by each member of the Oregon Liquor Control Commission or any of its au-
11 thorized agents.

12 “(2) Subject to subsection (3) of this section, regulatory specialists have
13 authority as provided under this chapter, ORS chapter 153, ORS 133.005 to
14 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.235, 161.239,
15 161.245[, 475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to
16 475B.655] and chapter 743, Oregon Laws 1971, to conduct inspections or in-
17 vestigations, make arrests and seizures, aid in prosecutions for offenses, issue
18 criminal citations and citations for violations and otherwise enforce this
19 chapter, ORS 474.005 to 474.095[,] **and** 474.115, [475B.010 to 475B.395, 475B.550
20 to 475B.590 and 475B.600 to 475B.655,] commission rules and any other laws
21 of this state that the commission considers related to alcoholic liquor,
22 [*marijuana and marijuana-derived products,*] including but not limited to:

23 “(a) Laws regarding the production, processing, manufacture, importation,
24 transportation, possession, distribution, sale or consumption of alcoholic
25 beverages[, *marijuana or marijuana-derived products*];

26 “(b) The manufacture or use of false identification; or

27 “(c) The entry of premises licensed to sell alcoholic liquor[, *marijuana or*
28 *marijuana-derived products*].

29 “(3) A regulatory specialist may not:

30 “(a) Be sworn in as a federal law enforcement official and act in that

1 capacity while performing duties under subsection (2) of this section; **or**

2 “(b) Carry a firearm[;].

3 “[*(c) Conduct inspections and investigations of a primary residence or for*
4 *purposes of ensuring compliance with ORS 475B.245 and 475B.375; or]*

5 “[*(d) Except as provided under the provisions of ORS 475B.010 to 475B.395,*
6 *conduct inspections and investigations for purposes of ensuring compliance*
7 *with ORS 475B.400 to 475B.525.]*

8 **“SECTION 16.** Section 2, chapter 18, Oregon Laws 2017 (Enrolled Senate
9 Bill 863), is amended to read:

10 **“Sec. 2.** (1) As used in this section, ‘information that may be used to
11 identify a consumer’ means information that may be acquired through the
12 production of a piece of identification as described in ORS 475B.170, whether
13 the information is contained in a piece of identification described in ORS
14 475B.170 or in a different document or record.

15 “(2) A consumer may not be required to procure for the purpose of ac-
16 quiring or purchasing a marijuana item a piece of identification other than:

17 “(a) A piece of identification described in ORS 475B.170; and

18 “(b) If the consumer is a registry identification cardholder, as defined in
19 ORS 475B.410, a registry identification card, as defined in ORS 475B.410.

20 “(3) A marijuana retailer may not record and retain any information that
21 may be used to identify a consumer, **except as necessary to make deliv-**
22 **eries to consumers pursuant to ORS 475B.160 (3), as required by any**
23 **rules adopted under ORS 475B.160 (3).**

24 “(4) A marijuana retailer may not transfer any information that may be
25 used to identify a consumer to any other person.

26 “(5)(a) Notwithstanding subsection (3) of this section, a marijuana retailer
27 may record and retain the name and contact information of a consumer for
28 the purpose of notifying the consumer of services that the marijuana retailer
29 provides or of discounts, coupons and other marketing information if:

30 “(A) The marijuana retailer asks the consumer whether the marijuana

1 retailer may record and retain the information; and

2 “(B) The consumer consents to the recording and retention of the infor-
3 mation.

4 “(b) This subsection does not authorize a marijuana retailer to transfer
5 information that may be used to identify a consumer.

6 “(6) This section does not apply to deidentified information the documen-
7 tation and transfer of which is required by the Department of Revenue for
8 purposes of section 2, chapter 91, Oregon Laws 2016.

9

10

**“OPERATIVE DATE FOR
SECTIONS 4 AND 6 OF ACT**

11

12

13 **“SECTION 17. (1) Sections 4 and 6 of this 2017 Act become operative
14 on January 1, 2018.**

15 **“(2) The Oregon Liquor Control Commission and the Oregon Health
16 Authority may take any action before the operative date specified in
17 subsection (1) of this section that is necessary to enable the commis-
18 sion and the authority to exercise, on and after the operative date
19 specified in subsection (1) of this section, all of the duties, functions
20 and powers conferred on the commission and the authority by sections
21 4 and 6 of this 2017 Act.**

22

23

“CAPTIONS

24

25 **“SECTION 18. The unit captions used in this 2017 Act are provided
26 only for the convenience of the reader and do not become part of the
27 statutory law of this state or express any legislative intent in the
28 enactment of this 2017 Act.**

29

30

“EFFECTIVE DATE

1 **SECTION 19. This 2017 Act being necessary for the immediate**
2 **preservation of the public peace, health and safety, an emergency is**
3 **declared to exist, and this 2017 Act takes effect on its passage.”.**

4
