

SB 56-41
(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 **“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 the following
12 persons whether an address is the location of a premises for which a
13 license has been issued under ORS 475B.010 to 475B.395 or is the lo-
14 cation of a premises for which an application for licensure has been
15 submitted under ORS 475B.040:

16 **“(1)** A person designated by a city or a county;

17 **“(2)** A person designated by the State Department of Agriculture;
18 and

19 **“(3)** A person designated by the Water Resources Department.

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

22 **“SECTION 6.** (1) The Oregon Health Authority shall maintain a
23 telephone hotline for the purpose of informing the following persons
24 whether an address is the location of a marijuana grow site, marijuana
25 processing site or medical marijuana dispensary or is the proposed lo-
26 cation of a marijuana grow site, marijuana processing site or medical
27 marijuana dispensary:

28 **“(a)** A person designated by a city or a county;

29 **“(b)** A person designated by the State Department of Agriculture;
30 and

1 “(c) A person designated by the Water Resources Department.

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

4
5 **“PROCESSING BY SMALL PRODUCERS**

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

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

14 “(a) A mechanical process; or

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

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

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

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

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

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

28 “475B.135. As is necessary to protect the public health and safety, the
29 Oregon Liquor Control Commission may require a premises licensed under
30 ORS 475B.010 to 475B.395 to be segregated into separate areas:

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

4 “(2) For conducting activities related to processing marijuana into dif-
5 ferent types of cannabinoid products, cannabinoid concentrates or
6 cannabinoid extracts, if the licensee is a marijuana processor that holds a
7 license issued under ORS 475B.090 and that processes marijuana into any
8 combination of different types of products, concentrates and extracts; or

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

13

14 **“IMMATURE MARIJUANA PLANT LIMITATIONS**

15

16 **“SECTION 10. The limitations on the number of immature
17 marijuana plants that may be located at an address as set forth in ORS
18 475B.428 (3) to (6) do not apply, except as provided by the Oregon Li-
19 quor Control Commission by rule, to a premises for which an applica-
20 tion has been made under ORS 475B.040 on or before the effective date
21 of this 2017 Act for a license to produce marijuana under ORS 475B.070
22 until the license is issued or the application is denied.**

23

24 **“EXCLUSIVELY MEDICAL LICENSEES**

25

26 **“SECTION 11. If a city or county enacts or has enacted an ordi-
27 nance prohibiting or allowing marijuana processing sites registered
28 under ORS 475B.435 or medical marijuana dispensaries registered un-
29 der ORS 475B.450, the governing body of the city or the county may
30 amend the ordinance, without referring the amendment to the electors**

1 of the city or county under ORS 475B.800, to prohibit or allow a
2 licensee, as defined in ORS 475B.015, that has been designated an ex-
3 clusively medical licensee under section 24, 25, 26 or 27, chapter ____,
4 Oregon Laws 2017 (Enrolled Senate Bill 1057).

5 “SECTION 11a. If House Bill 2198 becomes law, section 17, chapter
6 _____, Oregon Laws 2017 (Enrolled House Bill 2198) (amending ORS
7 475B.460), is repealed.

8
9 “AMENDMENTS TO STATUTES AND SESSION LAW
10

11 “SECTION 12. ORS 475B.045 is amended to read:

12 “475B.045. (1) The Oregon Liquor Control Commission may not license an
13 applicant under the provisions of ORS 475B.010 to 475B.395 if the applicant
14 is under 21 years of age.

15 “(2) The commission may refuse to **issue a license or may issue a re-**
16 **stricted license to** an applicant under the provisions of ORS 475B.010 to
17 475B.395 if the commission [*has reasonable ground to believe*] **makes a**
18 **finding** that the applicant:

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

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

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

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

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

29 “(f) Does not have a good record of compliance with ORS 475B.010 to
30 475B.395 or any rule [*of the commission*] adopted under ORS 475B.010 to

1 475B.395.

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

6 “(h) [*Is not possessed of or*] Has not demonstrated financial responsibility
7 sufficient to adequately meet the requirements of the [*business*] **premises**
8 proposed to be licensed.

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

12 “(3) Notwithstanding subsection (2)(d) of this section, in determining
13 whether [*the commission may refuse*] to **issue a license or a restricted li-**
14 **cence to** an applicant, the commission may not consider the prior conviction
15 of the applicant or any owner, director, officer, manager, employee, agent or
16 other representative of the applicant for:

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

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

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

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

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

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

27 “(c) The possession of marijuana.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 “[d] (e) Subject to the limitations and privileges described in section 5
29 (4), chapter 83, Oregon Laws 2016, allow a marijuana retailer registered un-
30 der section 5, chapter 83, Oregon Laws 2016, to sell medical grade

1 cannabinoid products, cannabinoid concentrates and cannabinoid extracts at
2 retail in the same manner that rules adopted under ORS 475B.010 to 475B.395
3 allow a marijuana retailer to sell general use cannabinoid products,
4 cannabinoid concentrates and cannabinoid extracts at retail, excepting those
5 circumstances where differentiating between the sale of medical grade
6 cannabinoid products, cannabinoid concentrates and cannabinoid extracts
7 and the sale of general use cannabinoid products, cannabinoid concentrates
8 and cannabinoid extracts is necessary to protect the public health and safety;
9 and

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

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

14 “(a) May not exceed, together with other fees collected under ORS
15 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395; and

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

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

19 “475B.210. The Oregon Liquor Control Commission may revoke [*or*], sus-
20 pend **or restrict** a license issued under ORS 475B.010 to 475B.395 **or require**
21 **a licensee or licensee representative to undergo training** if the commis-
22 sion finds or has reasonable ground to believe any of the following to be
23 true:

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

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

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

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

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

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

5 “(f) Since the [*granting*] **issuance** of the license, has been convicted of a
6 felony, of violating any of the marijuana laws of this state, general or local,
7 or of any misdemeanor or violation of any municipal ordinance committed
8 on the [*licensed*] premises **for which the license has been issued**.

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

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

15 “471.775. (1) The provisions of ORS 183.440 shall apply to subpoenas issued
16 by each member of the Oregon Liquor Control Commission or any of its au-
17 thorized agents.

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

29 “(a) Laws regarding the production, processing, manufacture, importation,
30 transportation, possession, distribution, sale or consumption of alcoholic

1 beverages[, *marijuana or marijuana-derived products*];

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

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

5 “(3) A regulatory specialist may not:

6 “(a) Be sworn in as a federal law enforcement official and act in that
7 capacity while performing duties under subsection (2) of this section; **or**

8 “(b) Carry a firearm[;].

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

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

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

16 “**Sec. 2.** (1) As used in this section, ‘information that may be used to
17 identify a consumer’ means information that may be acquired through the
18 production of a piece of identification as described in ORS 475B.170, whether
19 the information is contained in a piece of identification described in ORS
20 475B.170 or in a different document or record.

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

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

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

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

30 “(4) A marijuana retailer may not transfer any information that may be

1 used to identify a consumer to any other person.

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

6 “(A) The marijuana retailer asks the consumer whether the marijuana
7 retailer may record and retain the information; and

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

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

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

15

16

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

17

18

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

21 **“(2) The Oregon Liquor Control Commission and the Oregon Health**
22 **Authority may take any action before the operative date specified in**
23 **subsection (1) of this section that is necessary to enable the commis-**
24 **sion and the authority to exercise, on and after the operative date**
25 **specified in subsection (1) of this section, all of the duties, functions**
26 **and powers conferred on the commission and the authority by sections**
27 **4 and 6 of this 2017 Act.**

28

29

“CAPTIONS

30

1 **SECTION 18. The unit captions used in this 2017 Act are provided**
2 **only for the convenience of the reader and do not become part of the**
3 **statutory law of this state or express any legislative intent in the**
4 **enactment of this 2017 Act.**

5

6

“EFFECTIVE DATE

7

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

11
