

Requested by JOINT COMMITTEE ON WAYS AND MEANS

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2355  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

1 On page 8 of the printed A-engrossed bill, delete lines 24 through 45.

2 Delete page 9.

3 On page 10, delete lines 1 and 2 and insert:

4 **“SECTION 9.** ORS 475.752, as amended by section 59, chapter 24, Oregon  
5 Laws 2016, and section 26, chapter 21, Oregon Laws 2017 (Enrolled Senate  
6 Bill 302), is amended to read:

7 “475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752  
8 to 475.980, it is unlawful for any person to manufacture or deliver a con-  
9 trolled substance. Any person who violates this subsection with respect to:

10 “(a) A controlled substance in Schedule I, is guilty of a Class A felony,  
11 except as otherwise provided in ORS 475.886 and 475.890.

12 “(b) A controlled substance in Schedule II, is guilty of a Class B felony,  
13 except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and  
14 475.906.

15 “(c) A controlled substance in Schedule III, is guilty of a Class C felony,  
16 except as otherwise provided in ORS 475.904 and 475.906.

17 “(d) A controlled substance in Schedule IV, is guilty of a Class B  
18 misdemeanor.

19 “(e) A controlled substance in Schedule V, is guilty of a Class C  
20 misdemeanor.

1 “(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980,  
2 it is unlawful for any person to create or deliver a counterfeit substance.  
3 Any person who violates this subsection with respect to:

4 “(a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

5 “(b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

6 “(c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

7 “(d) A counterfeit substance in Schedule IV, is guilty of a Class B  
8 misdemeanor.

9 “(e) A counterfeit substance in Schedule V, is guilty of a Class C  
10 misdemeanor.

11 “(3) It is unlawful for any person knowingly or intentionally to possess  
12 a controlled substance unless the substance was obtained directly from, or  
13 pursuant to a valid prescription or order of, a practitioner while acting in  
14 the course of professional practice, or except as otherwise authorized by ORS  
15 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this sub-  
16 section with respect to:

17 “(a) A controlled substance in Schedule I, is guilty of a Class [*B felony*]  
18 **A misdemeanor**, except as otherwise provided in ORS **475.854, 475.874 and**  
19 **475.894 and subsection (7) of this section.**

20 “(b) A controlled substance in Schedule II, is guilty of a Class [*C felony*]  
21 **A misdemeanor, except as otherwise provided in ORS 475.824, 475.834**  
22 **or 475.884 or subsection (8) of this section.**

23 “(c) A controlled substance in Schedule III, is guilty of a Class A  
24 misdemeanor.

25 “(d) A controlled substance in Schedule IV, is guilty of a Class C  
26 misdemeanor.

27 “(e) A controlled substance in Schedule V, is guilty of a violation.

28 “(4) In any prosecution under this section for manufacture, possession or  
29 delivery of that plant of the genus *Lophophora* commonly known as peyote,  
30 it is an affirmative defense that the peyote is being used or is intended for

1 use:

2 “(a) In connection with the good faith practice of a religious belief;

3 “(b) As directly associated with a religious practice; and

4 “(c) In a manner that is not dangerous to the health of the user or others  
5 who are in the proximity of the user.

6 “(5) The affirmative defense created in subsection (4) of this section is  
7 not available to any person who has possessed or delivered the peyote while  
8 incarcerated in a correctional facility in this state.

9 “(6)(a) Notwithstanding subsection (1) of this section, a person who un-  
10 lawfully manufactures or delivers a controlled substance in Schedule IV and  
11 who thereby causes death to another person is guilty of a Class C felony.

12 “(b) For purposes of this subsection, causation is established when the  
13 controlled substance plays a substantial role in the death of the other per-  
14 son.

15 **“(7) Notwithstanding subsection (3)(a) of this section, unlawful**  
16 **possession of a controlled substance in Schedule I is a Class B felony**  
17 **if:**

18 **“(a) The person possesses a usable quantity of the controlled sub-**  
19 **stance and:**

20 **“(A) At the time of the possession, the person has a prior felony**  
21 **conviction;**

22 **“(B) At the time of the possession, the person has two or more prior**  
23 **convictions for unlawful possession of a usable quantity of a controlled**  
24 **substance; or**

25 **“(C) The possession is a commercial drug offense under ORS 475.900**  
26 **(1)(b); or**

27 **“(b) The person possesses:**

28 **“(A) Forty or more user units of a mixture or substance containing**  
29 **a detectable amount of lysergic acid diethylamide; or**

30 **“(B) Twelve grams or more of a mixture or substance containing a**

1 **detectable amount of psilocybin or psilocin.**

2 **“(8) Notwithstanding subsection (3)(b) of this section, unlawful**  
3 **possession of a controlled substance in Schedule II is a Class C felony**  
4 **if the person possesses a usable quantity of the controlled substance**  
5 **and:**

6 **“(a) At the time of the possession, the person has a prior felony**  
7 **conviction;**

8 **“(b) At the time of the possession, the person has two or more prior**  
9 **convictions for unlawful possession of a usable quantity of a controlled**  
10 **substance; or**

11 **“(c) The possession is a commercial drug offense under ORS 475.900**  
12 **(1)(b).”.**

13 On page 14, delete lines 5 through 10 and insert:

14 **“(23) ‘Usable quantity’ means:**

15 **“(a) An amount of a controlled substance that is sufficient to physically**  
16 **weigh independent of its packaging and that does not fall below the uncer-**  
17 **tainty of the measuring scale; or**

18 **“(b) An amount of a controlled substance that has not been deemed**  
19 **unweighable, as determined by a Department of State Police forensic labo-**  
20 **ratory, due to the circumstances of the controlled substance.”.**

21 On page 20, after line 12, insert:

22 **“SECTION 26. Notwithstanding any other provision of law, the**  
23 **General Fund appropriation made to the Oregon Criminal Justice**  
24 **Commission by section 1, chapter \_\_\_\_\_, Oregon Laws 2017 (Enrolled**  
25 **House Bill 5005), for the biennium beginning July 1, 2017, is increased**  
26 **by \$347,351 for the purpose of implementing the provisions of this 2017**  
27 **Act.**

28 **“SECTION 27. Notwithstanding any other provision of law, the**  
29 **General Fund appropriation made to the Department of State Police**  
30 **by section 1 (4), chapter \_\_\_\_\_, Oregon Laws 2017 (Enrolled House Bill**

1 5031), for the biennium beginning July 1, 2017, for administrative ser-  
2 vices, agency support, criminal justice information services and office  
3 of the State Fire Marshal, is increased by \$780,418 for the purpose of  
4 implementing the provisions of this 2017 Act.

5 **“SECTION 28.** Notwithstanding any other law limiting expenditures,  
6 the limitation on expenditures established by section 2 (4), chapter  
7 \_\_\_\_\_, Oregon Laws 2017 (Enrolled House Bill 5031), for the biennium  
8 beginning July 1, 2017, as the maximum limit for payment of expenses  
9 from fees, moneys or other revenues, including Miscellaneous Re-  
10 ceipts, but excluding lottery funds and federal funds, collected or re-  
11 ceived by the Department of State Police for administrative services,  
12 agency support, criminal justice information services and office of the  
13 State Fire Marshal, is increased by \$750,000 for the purpose of imple-  
14 menting the provisions of this 2017 Act.

15 **“SECTION 29.** Notwithstanding any other law limiting expenditures,  
16 the limitation on expenditures established by section 2 (1), chapter  
17 \_\_\_\_\_, Oregon Laws 2017 (Enrolled House Bill 5034), for the biennium  
18 beginning July 1, 2017, as the maximum limit for payment of expenses  
19 from fees, moneys or other revenues, including Miscellaneous Re-  
20 ceipts, but excluding lottery funds and federal funds, collected or re-  
21 ceived by the Department of Public Safety Standards and Training, for  
22 operations, is increased by \$431,330 for the purpose of implementing  
23 the provisions of this 2017 Act.”.

24 In line 13, delete “26” and insert “30”.

25 In line 21, delete “27” and insert “31”.

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