

# House Bill 4110

Sponsored by Representatives HELM, FAHEY; Representative MARSH (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows Oregon Liquor Control Commission to issue temporary special events license to qualified marijuana processor, producer, retailer or wholesaler. Directs commission to adopt rules related to special events and special events licenses. Allows special events license holder to offer free samples of marijuana items at special events.

Requires that industrial hemp commodities and products sold by marijuana retailer be displayed separately from marijuana items and carry specified label.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to marijuana licensees; creating new provisions; amending ORS 475B.025, 475B.045,  
3 475B.055, 475B.173, 475B.177 and 475B.461; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2018 Act is added to and made a part of ORS 475B.010 to**  
6 **475B.545.**

7 **SECTION 2. (1) The Oregon Liquor Control Commission may issue a special events li-**  
8 **cence to a licensee. A special events license issued under this section entitles the license**  
9 **holder to offer free samples of marijuana items at a designated location other than the**  
10 **premises at which the license holder is licensed under ORS 475B.070, 475B.090, 475B.100 or**  
11 **475B.105 for the number of days specified in the application submitted under subsection (2)**  
12 **of this section.**

13 **(2) To obtain a special events license, a licensee shall:**

14 **(a) Apply to the commission for a license in the manner described in ORS 475B.040;**

15 **(b) Pay a special events license fee established by the commission by rule; and**

16 **(c) Submit to the commission sufficient proof that the special event for which the**  
17 **marijuana retailer is applying for the license:**

18 **(A) Is open only to persons who are at least 21 years of age; and**

19 **(B) Complies with other requirements established by the commission by rule.**

20 **(3) Fees adopted under this section:**

21 **(a) May not exceed, together with other fees collected under ORS 475B.010 to 475B.545,**  
22 **the cost of administering ORS 475B.010 to 475B.545; and**

23 **(b) Must be deposited in the Marijuana Control and Regulation Fund established under**  
24 **ORS 475B.296.**

25 **(4) The commission shall adopt rules to carry out the provisions of this section.**

26 **SECTION 3. Section 4 of this 2018 Act is added to and made a part of ORS 475B.010 to**  
27 **475B.545.**

28 **SECTION 4. (1) Industrial hemp commodities and products offered for sale by a**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **marijuana retailer who holds a license issued under ORS 475B.105 must:**

2 (a) **Be displayed separately from marijuana items that the marijuana retailer offers for**  
3 **sale; and**

4 (b) **Carry a label that reads “This product is derived from industrial hemp and should not**  
5 **be confused with similar products derived from marijuana.”**

6 (2) **The Oregon Liquor Control Commission may:**

7 (a) **Inspect the premises of a marijuana retailer who holds a license issued under ORS**  
8 **475B.105 to ensure compliance with this section; and**

9 (b) **Adopt rules to carry out this section.**

10 (3) **As used in this section, “industrial hemp” has the meaning given that term in ORS**  
11 **571.300.**

12 **SECTION 5.** ORS 475B.025 is amended to read:

13 475B.025. (1) The Oregon Liquor Control Commission has the duties, functions and powers  
14 specified in ORS 475B.010 to 475B.545 and the powers necessary or proper to enable the commission  
15 to carry out the commission’s duties, functions and powers under ORS 475B.010 to 475B.545. The  
16 jurisdiction, supervision, duties, functions and powers of the commission extend to any person that  
17 produces, processes, transports, delivers, sells or purchases a marijuana item in this state. The  
18 commission may sue and be sued.

19 (2) The duties, functions and powers of the commission specified in ORS 475B.010 to 475B.545  
20 include the following:

21 (a) To regulate the production, processing, transportation, delivery, sale and purchase of  
22 marijuana items in accordance with the provisions of ORS 475B.010 to 475B.545.

23 (b) To issue, renew, suspend, revoke or refuse to issue or renew licenses for the production,  
24 processing or sale of marijuana items, or other licenses related to the consumption of marijuana  
25 items, and to permit, in the commission’s discretion, the transfer of a license between persons.

26 (c) To adopt, amend or repeal rules as necessary to carry out the intent and provisions of ORS  
27 475B.010 to 475B.545, including rules that the commission considers necessary to protect the public  
28 health and safety.

29 (d) To exercise all powers incidental, convenient or necessary to enable the commission to ad-  
30 minister or carry out the provisions of ORS 475B.010 to 475B.545 or any other law of this state that  
31 charges the commission with a duty, function or power related to marijuana. Powers described in  
32 this paragraph include, but are not limited to:

33 (A) Issuing subpoenas;

34 (B) Compelling the attendance of witnesses;

35 (C) Administering oaths;

36 (D) Certifying official acts;

37 (E) Taking depositions as provided by law;

38 (F) Compelling the production of books, payrolls, accounts, papers, records, documents and tes-  
39 timony; and

40 (G) Establishing fees in addition to the application, licensing and renewal fees described in ORS  
41 475B.070, 475B.090, 475B.100 and 475B.105 **and section 2 of this 2018 Act**, provided that any fee  
42 established by the commission is reasonably calculated not to exceed the cost of the activity for  
43 which the fee is charged.

44 (e) To adopt rules regulating and prohibiting advertising marijuana items in a manner:

45 (A) That is appealing to minors;

1 (B) That promotes excessive use;

2 (C) That promotes illegal activity; or

3 (D) That otherwise presents a significant risk to public health and safety.

4 (f) To regulate the use of marijuana items for other purposes as deemed necessary or appropri-  
5 ate by the commission.

6 (3) Fees collected pursuant to subsection (2)(d)(G) of this section shall be deposited in the  
7 Marijuana Control and Regulation Fund established under ORS 475B.296.

8 **SECTION 6.** ORS 475B.045 is amended to read:

9 475B.045. (1) The Oregon Liquor Control Commission may not license an applicant under the  
10 provisions of ORS 475B.010 to 475B.545 if the applicant is under 21 years of age.

11 (2) The commission may refuse to issue a license or may issue a restricted license to an appli-  
12 cant under the provisions of ORS 475B.010 to 475B.545 if the commission makes a finding that the  
13 applicant:

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

16 (b) Has made false statements to the commission.

17 (c) Is incompetent or physically unable to carry on the management of the establishment pro-  
18 posed to be licensed.

19 (d) Has been convicted of violating a federal law, state law or local ordinance if the conviction  
20 is substantially related to the fitness and ability of the applicant to lawfully carry out activities  
21 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 475B.545 or any rule  
24 adopted under ORS 475B.010 to 475B.545.

25 (g) Is not the legitimate owner of the premises proposed to be licensed, or has not disclosed that  
26 other persons have ownership interests in the premises proposed to be licensed, **unless the appli-**  
27 **licant is applying for a special events license under section 2 of this 2018 Act.**

28 (h) Has not demonstrated financial responsibility sufficient to adequately meet the requirements  
29 of the premises proposed to be licensed.

30 (i) Is unable to understand the laws of this state relating to marijuana items or the rules adopted  
31 under ORS 475B.010 to 475B.545.

32 (3) Notwithstanding subsection (2)(d) of this section, in determining whether to issue a license  
33 or a restricted license to an applicant, the commission may not consider the prior conviction of the  
34 applicant or any owner, director, officer, manager, employee, agent or other representative of the  
35 applicant for:

36 (a) The manufacture of marijuana, if:

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

38 (B) The person has not been convicted more than once for the manufacture or delivery of  
39 marijuana;

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

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

42 (B) The person has not been convicted more than once for the manufacture or delivery of  
43 marijuana; or

44 (c) The possession of marijuana.

45 **SECTION 7.** ORS 475B.055 is amended to read:

1 475B.055. (1) A license issued under ORS 475B.010 to 475B.545:

2 [(1)] (a) Is a personal privilege.

3 [(2)] (b) Is renewable in the manner provided in ORS 475B.040, except for a cause that would  
4 be grounds for refusal to issue the license under ORS 475B.045.

5 [(3)] (c) Is revocable or suspendible as provided in ORS 475B.256.

6 [(4)] (d) Is transferable from the premises for which the license was originally issued to another  
7 premises subject to the provisions of ORS 475B.010 to 475B.545, applicable rules adopted under ORS  
8 475B.010 to 475B.545 and applicable local ordinances.

9 [(5)] (e) If the license was issued to an individual, expires upon the death of the licensee, except  
10 as provided in ORS 475B.033.

11 [(6)] (f) Does not constitute property.

12 [(7)] (g) Is not alienable.

13 [(8)] (h) Is not subject to attachment or execution.

14 [(9)] (i) Does not descend by the laws of testate or intestate devolution.

15 **(2) Subsection (1)(b), (d) and (e) of this section does not apply to licenses issued under**  
16 **section 2 of this 2018 Act.**

17 **SECTION 8.** ORS 475B.173 is amended to read:

18 475B.173. In adopting rules related to industry best practices under ORS 475B.070, 475B.090,  
19 475B.100 and 475B.105 **and section 2 of this 2018 Act**, the Oregon Liquor Control Commission may  
20 establish merit-based criteria for licensure or renewal of licensure, including, but not limited to,  
21 possession of a developed business plan, access to sufficient capital, offering living wages and ben-  
22 efits to employees, provision of training and apprenticeship, provision of community benefits, imple-  
23 mentation of best environmental practices and implementation of consumer safety practices.

24 **SECTION 9.** ORS 475B.177 is amended to read:

25 475B.177. (1) The Oregon Liquor Control Commission shall develop and maintain a system for  
26 tracking the transfer of marijuana items between premises for which licenses have been issued under  
27 ORS 475B.010 to 475B.545.

28 (2) The purposes of the system developed and maintained under this section include, but are not  
29 limited to:

30 (a) Preventing the diversion of marijuana items to criminal enterprises, gangs, cartels and other  
31 states;

32 (b) Preventing persons from substituting or tampering with marijuana items;

33 (c) Ensuring an accurate accounting of the production, processing and sale of marijuana items;

34 (d) Ensuring that laboratory testing results are accurately reported; and

35 (e) Ensuring compliance with ORS 475B.010 to 475B.545, rules adopted under ORS 475B.010 to  
36 475B.545 and any other law of this state that charges the commission with a duty, function or power  
37 related to marijuana.

38 (3) The system developed and maintained under this section must be capable of tracking, at a  
39 minimum:

40 (a) The propagation of immature marijuana plants and the production of marijuana by a  
41 marijuana producer;

42 (b) The processing of marijuana by a marijuana processor;

43 (c) The receiving, storing and delivering of marijuana items by a marijuana wholesaler;

44 (d) The sale of marijuana items by a marijuana retailer to a consumer;

45 (e) The sale and purchase of marijuana items between licensees, as permitted by ORS 475B.010

1 to 475B.545;

2 (f) The transfer of marijuana items, **including samples of marijuana items**, between premises  
3 for which licenses have been issued under ORS 475B.010 to 475B.545; and

4 (g) Any other information that the commission determines is reasonably necessary to accomplish  
5 the duties, functions and powers of the commission under ORS 475B.010 to 475B.545.

6 **SECTION 10.** ORS 475B.461 is amended to read:

7 475B.461. (1) The governing body of a city or a county, when a petition is filed as provided in  
8 this section, shall order an election on the question as to whether the operation of premises for  
9 which a license has been issued under ORS 475B.010 to 475B.545, **except premises for which a**  
10 **license has been issued under section 2 of this 2018 Act**, should be prohibited in the city or  
11 county.

12 (2) Except as otherwise provided in this section, the requirements for preparing, circulating and  
13 filing a petition under this section:

14 (a) In the case of a city, must be as provided for an initiative petition under ORS 250.265 to  
15 250.346.

16 (b) In the case of a county, must be as provided for an initiative petition under ORS 250.165 to  
17 250.235.

18 (3) A petition under this section:

19 (a) Must be filed not less than 60 days before the day of the election; and

20 (b) Must be signed by not less than 10 percent of the electors registered in the city or county.

21 (4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255  
22 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and  
23 filing a petition under this section must be as provided for an initiative petition under the county  
24 or city charter or an ordinance adopted under the county or city charter.

25 (5) A signature is not valid unless signed within 180 days before the petition is filed.

26 (6) An election under this section must be held at the time of the next statewide general  
27 election.

28 (7) An election under this section must be conducted under ORS chapters 246 to 260.

29 **SECTION 11.** The requirements of section 4 of this 2018 Act apply to industrial hemp  
30 commodities and products offered for sale on or after January 1, 2019.

31 **SECTION 12.** (1) Sections 2 and 4 of this 2018 Act and the amendments to ORS 475B.025,  
32 475B.045, 475B.055, 475B.173, 475B.177 and 475B.461 by sections 5 to 10 of this 2018 Act become  
33 operative on January 1, 2019.

34 (2) The Oregon Liquor Control Commission may take any action before the operative date  
35 specified in subsection (1) of this section that is necessary to enable the commission to ex-  
36 ercise, on or after the operative date specified in subsection (1) of this section, all of the  
37 duties, functions and powers conferred on the commission by sections 2 and 4 of this 2018  
38 Act and the amendments to ORS 475B.025, 475B.045, 475B.055, 475B.173, 475B.177 and 475B.461  
39 by sections 5 to 10 of this 2018 Act.

40 **SECTION 13.** This 2018 Act being necessary for the immediate preservation of the public  
41 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect  
42 on its passage.