

A-Engrossed
House Bill 2098

Ordered by the House April 12
Including House Amendments dated April 12

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Liquor Control Commission)

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.

[Establishes that recreational marijuana licensure renewal fees are nonrefundable if applicant is conditionally or unconditionally authorized to operate marijuana establishment.]

Directs Oregon Liquor Control Commission to establish advisory committee to advise commission, Oregon Health Authority and State Department of Agriculture on standards for testing marijuana. Authorizes commission to establish pilot programs to expand access to marijuana for medical use to registry identification cardholders and designated primary caregivers. Clarifies that exemption from requirement to obtain land use compatibility statement as condition of licensure as marijuana producer applies to person responsible for medical marijuana grow site who has been continuously registered since January 1, 2015. Defines "kief" and allows marijuana producer to produce and transfer kief. Exempts from prohibition on selling or delivering marijuana item to person under 21 years of age marijuana retailer authorized to sell or deliver marijuana items to registry identification cardholder who is at least 18 years of age. Directs commission to revoke marijuana retailer license if retailer fails to pay specified taxes or file specified returns.

Increases civil penalty for violation of laws related to recreational marijuana from \$5,000 to \$10,000 per violation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to marijuana; creating new provisions; amending ORS 475B.015, 475B.025, 475B.045,
3 475B.074, 475B.096, 475B.186, 475B.199, 475B.206, 475B.211, 475B.216, 475B.256, 475B.416,
4 475B.577, 475B.705 and 475B.710; and declaring an emergency.

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

6 **SECTION 1. (1) The Oregon Liquor Control Commission shall establish an advisory com-**
7 **mittee to advise the commission, the Oregon Health Authority and the State Department of**
8 **Agriculture on establishing and maintaining standards for testing the potency of marijuana**
9 **and marijuana items, as those terms are defined in ORS 475B.015. The members of the**
10 **committee must include members who are:**

11 (a) **Representatives of the commission, the authority and the department;**

12 (b) **Stakeholders in the marijuana industry; and**

13 (c) **Individuals who have expertise in the potency testing of marijuana and marijuana**
14 **items.**

15 (2) **The commission may adopt rules to carry out this section.**

16 **SECTION 2. ORS 475B.015 is amended to read:**

17 475B.015. As used in ORS 475B.010 to 475B.545:

18 (1) "Cannabinoid" means any of the chemical compounds that are the active constituents *[of]*
19 **derived from** marijuana.

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 (2) “Cannabinoid concentrate” means a substance obtained by separating cannabinoids from
2 marijuana by:

3 (a) A mechanical extraction process;

4 (b) A chemical extraction process using a nonhydrocarbon-based solvent, such as water, vege-
5 table glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

6 (c) A chemical extraction process using carbon dioxide, provided that the process does not in-
7 volve the use of high heat or pressure; or

8 (d) Any other process identified by the Oregon Liquor Control Commission, in consultation with
9 the Oregon Health Authority, by rule.

10 (3) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate,
11 cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

12 (4) “Cannabinoid extract” means a substance obtained by separating cannabinoids from
13 marijuana by:

14 (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane
15 or propane;

16 (b) A chemical extraction process using carbon dioxide, if the process uses high heat or pres-
17 sure; or

18 (c) Any other process identified by the commission, in consultation with the authority, by rule.

19 (5)(a) “Cannabinoid product” means a cannabinoid edible and any other product intended for
20 human consumption or use, including a product intended to be applied to the skin or hair, that
21 contains cannabinoids or dried marijuana leaves or flowers.

22 (b) “Cannabinoid product” does not include:

23 (A) Usable marijuana by itself;

24 (B) A cannabinoid concentrate by itself;

25 (C) A cannabinoid extract by itself; or

26 (D) Industrial hemp, as defined in ORS 571.300.

27 (6) “Consumer” means a person who purchases, acquires, owns, holds or uses marijuana items
28 other than for the purpose of resale.

29 (7) “Deliver” means the actual, constructive or attempted transfer from one person to another
30 of a marijuana item, whether or not there is an agency relationship.

31 (8) “Designated primary caregiver” has the meaning given that term in ORS 475B.791.

32 (9)(a) “Financial consideration” means value that is given or received either directly or indi-
33 rectly through sales, barter, trade, fees, charges, dues, contributions or donations.

34 (b) “Financial consideration” does not include marijuana, cannabinoid products or cannabinoid
35 concentrates that are delivered within the scope of and in compliance with ORS 475B.301.

36 (10) “Homegrown” means grown by a person 21 years of age or older for noncommercial pur-
37 poses.

38 (11) “Household” means a housing unit and any place in or around a housing unit at which the
39 occupants of the housing unit are producing, processing, possessing or storing homegrown
40 marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

41 (12) “Housing unit” means a house, an apartment or a mobile home, or a group of rooms or a
42 single room that is occupied as separate living quarters, in which the occupants live and eat sepa-
43 rately from any other persons in the building and that has direct access from the outside of the
44 building or through a common hall.

45 (13) “Immature marijuana plant” means a marijuana plant that is not flowering.

1 (14) "Licensee" means a person that holds a license issued under ORS 475B.070, 475B.090,
2 475B.100 or 475B.105.

3 (15) "Licensee representative" means an owner, director, officer, manager, employee, agent or
4 other representative of a licensee, to the extent that the person acts in a representative capacity.

5 (16)(a) "Manufacture" means producing, propagating, preparing, compounding, converting or
6 processing a marijuana item, either directly or indirectly, by extracting from substances of natural
7 origin.

8 (b) "Manufacture" includes any packaging or repackaging of a marijuana item or the labeling
9 or relabeling of a container containing a marijuana item.

10 (17)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant
11 Cannabis family Cannabaceae and marijuana seeds.

12 (b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

13 (18) "Marijuana flowers" means the flowers of the plant genus Cannabis within the plant family
14 Cannabaceae.

15 (19) "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates and
16 cannabinoid extracts.

17 (20) "Marijuana leaves" means the leaves of the plant genus Cannabis within the plant family
18 Cannabaceae.

19 (21) "Marijuana processor" means a person that processes marijuana items in this state.

20 (22) "Marijuana producer" means a person that produces marijuana in this state.

21 (23) "Marijuana retailer" means a person that sells marijuana items to a consumer in this state.

22 (24)(a) "Marijuana seeds" means the seeds of the plant Cannabis family Cannabaceae.

23 (b) "Marijuana seeds" does not include the seeds of industrial hemp, as defined in ORS 571.300.

24 (25) "Marijuana wholesaler" means a person that purchases marijuana items in this state for
25 resale to a person other than a consumer.

26 (26) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana
27 plant.

28 (27) "Medical grade cannabinoid product, cannabinoid concentrate or cannabinoid extract"
29 means a cannabinoid product, cannabinoid concentrate or cannabinoid extract that has a concen-
30 tration of tetrahydrocannabinol that is permitted under ORS 475B.625 in a single serving of the
31 cannabinoid product, cannabinoid concentrate or cannabinoid extract for consumers who hold a
32 valid registry identification card issued under ORS 475B.797.

33 (28) "Medical purpose" means a purpose related to using usable marijuana, cannabinoid pro-
34 ducts, cannabinoid concentrates or cannabinoid extracts to mitigate the symptoms or effects of a
35 debilitating medical condition, as defined in ORS 475B.791.

36 (29) "Noncommercial" means not dependent or conditioned upon the provision or receipt of fi-
37 nancial consideration.

38 (30)(a) "Premises" includes the following areas of a location licensed under ORS 475B.010 to
39 475B.545:

40 (A) All public and private enclosed areas at the location that are used in the business operated
41 at the location, including offices, kitchens, rest rooms and storerooms;

42 (B) All areas outside a building that the commission has specifically licensed for the processing,
43 wholesale sale or retail sale of marijuana items; and

44 (C) For a location that the commission has specifically licensed for the production of marijuana
45 outside a building, that portion of the location used to produce marijuana.

1 (b) "Premises" does not include a primary residence.

2 (31)(a) "Processes" means the processing, compounding or conversion of marijuana into
3 cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

4 (b) "Processes" does not include packaging or labeling.

5 (32)(a) "Produces" means the manufacture, planting, cultivation, growing or harvesting of
6 marijuana.

7 (b) "Produces" does not include:

8 (A) The drying of marijuana by a marijuana processor, if the marijuana processor is not other-
9 wise producing marijuana; or

10 (B) The cultivation and growing of an immature marijuana plant by a marijuana processor,
11 marijuana wholesaler or marijuana retailer if the marijuana processor, marijuana wholesaler or
12 marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

13 (33) "Propagate" means to grow immature marijuana plants or to breed or produce marijuana
14 seeds.

15 (34) "Public place" means a place to which the general public has access and includes, but is
16 not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting
17 rooms or apartments designed for actual residence, and highways, streets, schools, places of
18 amusement, parks, playgrounds and areas used in connection with public passenger transportation.

19 (35) "Registry identification cardholder" has the meaning given that term in ORS 475B.791.

20 (36)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.

21 (b) "Usable marijuana" does not include:

22 (A) Marijuana seeds;

23 (B) The stalks and roots of marijuana; or

24 (C) Waste material that is a by-product of producing or processing marijuana.

25 **SECTION 3.** ORS 475B.025 is amended to read:

26 475B.025. (1) The Oregon Liquor Control Commission has the duties, functions and powers
27 specified in ORS 475B.010 to 475B.545 and the powers necessary or proper to enable the commission
28 to carry out the commission's duties, functions and powers under ORS 475B.010 to 475B.545. The
29 jurisdiction, supervision, duties, functions and powers of the commission extend to any person that
30 produces, processes, transports, delivers, sells or purchases a marijuana item in this state. The
31 commission may sue and be sued.

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

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

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

39 (c) To adopt, amend or repeal rules as necessary to carry out the intent and provisions of ORS
40 475B.010 to 475B.545, including rules that the commission considers necessary to protect the public
41 health and safety.

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

- 1 (A) Issuing subpoenas;
- 2 (B) Compelling the attendance of witnesses;
- 3 (C) Administering oaths;
- 4 (D) Certifying official acts;
- 5 (E) Taking depositions as provided by law;
- 6 (F) Compelling the production of books, payrolls, accounts, papers, records, documents and tes-
- 7 timony; and
- 8 (G) Establishing fees in addition to the application, licensing and renewal fees described in ORS
- 9 475B.070, 475B.090, 475B.100 and 475B.105, provided that any fee established by the commission is
- 10 reasonably calculated not to exceed the cost of the activity for which the fee is charged.
- 11 (e) To adopt rules regulating and prohibiting advertising marijuana items in a manner:
- 12 (A) That is appealing to minors;
- 13 (B) That promotes excessive use;
- 14 (C) That promotes illegal activity; or
- 15 (D) That otherwise presents a significant risk to public health and safety.
- 16 (f) To regulate the use of marijuana items for other purposes as deemed necessary or appropri-
- 17 ate by the commission.
- 18 **(g) To establish pilot programs, of not more than three years in duration, to expand ac-**
- 19 **cess to marijuana for medical use for registry identification cardholders and designated pri-**
- 20 **mary caregivers, as defined in ORS 475B.791.**
- 21 (3) Fees collected pursuant to subsection (2)(d)(G) of this section shall be deposited in the
- 22 Marijuana Control and Regulation Fund established under ORS 475B.296.
- 23 **SECTION 4.** ORS 475B.045 is amended to read:
- 24 475B.045. (1) The Oregon Liquor Control Commission may not license an applicant under the
- 25 provisions of ORS 475B.010 to 475B.545 **or 475B.560** if the applicant is under 21 years of age.
- 26 (2) The commission may refuse to issue a license or may issue a restricted license to an appli-
- 27 cant under the provisions of ORS 475B.010 to 475B.545 if the commission makes a finding that the
- 28 applicant:
- 29 (a) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana or controlled
- 30 substances to excess.
- 31 (b) Has made false statements to the commission.
- 32 (c) Is incompetent or physically unable to carry on the management of the establishment pro-
- 33 posed to be licensed.
- 34 (d) Has been convicted of violating a federal law, state law or local ordinance if the conviction
- 35 is substantially related to the fitness and ability of the applicant to lawfully carry out activities
- 36 under the license.
- 37 (e) Is not of good repute and moral character.
- 38 (f) Does not have a good record of compliance with ORS 475B.010 to 475B.545 or any rule
- 39 adopted under ORS 475B.010 to 475B.545.
- 40 (g) Is not the legitimate owner of the premises proposed to be licensed, or has not disclosed that
- 41 other persons have ownership interests in the premises proposed to be licensed.
- 42 (h) Has not demonstrated financial responsibility sufficient to adequately meet the requirements
- 43 of the premises proposed to be licensed.
- 44 (i) Is unable to understand the laws of this state relating to marijuana items or the rules adopted
- 45 under ORS 475B.010 to 475B.545.

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

5 (a) The manufacture of marijuana, if:

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

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

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

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

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

13 (c) The possession of marijuana.

14 **SECTION 5.** ORS 475B.074 is amended to read:

15 475B.074. The requirement under ORS 475B.063 to obtain a land use compatibility statement as
16 a condition of receiving a license under ORS 475B.070 does not apply to an applicant if:

17 (1) The applicant is applying for a license at an address where a marijuana grow site registered
18 under ORS 475B.810 is located;

19 (2) The address is outside of city limits;

20 (3) At least one person responsible for a marijuana grow site located at the address first regis-
21 tered with the Oregon Health Authority under ORS 475B.810 before, **and has been continuously**
22 **registered since**, January 1, 2015;

23 (4) Each person responsible for a marijuana grow site located at the address first registered with
24 the Oregon Health Authority under ORS 475B.810 before February 1, 2016; and

25 (5) The applicant is applying for a mature marijuana plant grow canopy of:

26 (a) 5,000 square feet or less, if the marijuana is produced outdoors; or

27 (b) 1,250 square feet or less, if the marijuana is produced indoors.

28 **SECTION 6.** ORS 475B.096 is amended to read:

29 475B.096. (1) Notwithstanding ORS 475B.090, a marijuana producer that holds a license issued
30 under ORS 475B.070 and has a mature marijuana plant grow canopy described in subsection (2) of
31 this section may process marijuana into a cannabinoid concentrate if the process involves separating
32 cannabinoids from marijuana by:

33 (a) A mechanical process; or

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

35 (2) To be eligible to process marijuana into a cannabinoid concentrate under this section, a
36 marijuana producer must have a mature marijuana plant grow canopy, as restricted by the Oregon
37 Liquor Control Commission under ORS 475B.085, that does not exceed:

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

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

40 **(3)(a) A marijuana producer that holds a license issued under ORS 475B.070 and that has**
41 **a plant grow canopy determined by rule by the commission, may produce and transfer kief.**

42 **(b) For purposes of this subsection, “kief” means the resinous trichomes of marijuana**
43 **that accumulate or fall off when marijuana flowers are sifted through a mesh screen or**
44 **sieve.**

45 [(3)] (4) The processing of marijuana under this section must comport with any reasonable con-

1 dition adopted under ORS 475B.486 that is imposed on the manner in which a marijuana processor
2 licensed under ORS 475B.090 may process marijuana.

3 **SECTION 7.** ORS 475B.186 is amended to read:

4 475B.186. (1) The Legislative Assembly finds and declares that the unregulated commerce of
5 marijuana items constitutes a serious danger to public health and safety.

6 (2) In addition to any other disciplinary action available to the Oregon Liquor Control Com-
7 mission under ORS 475B.010 to 475B.545, the commission may immediately restrict, suspend or re-
8 fuse to renew a license issued under ORS 475B.010 to 475B.545 **or 475B.560** if circumstances create
9 probable cause for the commission to conclude that a licensee has purchased or received a
10 marijuana item from an unlicensed source or that a licensee has sold, stored or transferred a
11 marijuana item in a manner that is not permitted by the licensee's license.

12 **SECTION 8.** ORS 475B.199 is amended to read:

13 475B.199. (1) Notwithstanding the lapse, suspension or revocation of a permit issued under ORS
14 475B.266, the Oregon Liquor Control Commission may:

15 (a) Proceed with any investigation of, or any action or disciplinary proceeding against, the per-
16 son who held the permit; or

17 (b) Revise or render void an order suspending or revoking the permit.

18 (2) In cases involving the proposed denial of a [*license issued under ORS 475B.010 to 475B.545,*
19 *the applicant for licensure*] **permit issued under ORS 475B.266, the applicant for the permit** may
20 not withdraw the applicant's application.

21 **SECTION 9.** ORS 475B.206 is amended to read:

22 475B.206. (1) Except as provided in ORS 475B.136 and 475B.873, a marijuana producer that holds
23 a license issued under ORS 475B.070, marijuana processor that holds a license issued under ORS
24 475B.090 or marijuana wholesaler that holds a license issued under ORS 475B.100 may deliver
25 marijuana items only to or on a premises for which a license has been issued under ORS 475B.070,
26 475B.090, 475B.100 or 475B.105, or to a registry identification cardholder or designated primary
27 caregiver as allowed under ORS 475B.010 to 475B.545.

28 (2) A licensee to which marijuana items may be delivered under subsection (1) of this section
29 may receive marijuana items only from:

30 (a) A marijuana producer that holds a license issued under ORS 475B.070, marijuana processor
31 that holds a license issued under ORS 475B.090, marijuana wholesaler that holds a license issued
32 under ORS 475B.100 [*or*], marijuana retailer that holds a license issued under ORS 475B.105 **or a**
33 **laboratory licensed under ORS 475B.560;**

34 (b) A researcher of cannabis that holds a certificate issued under ORS 475B.286 and that
35 transfers limited amounts of marijuana, usable marijuana, cannabinoid products, cannabinoid con-
36 centrates and cannabinoid extracts in accordance with procedures adopted under ORS 475B.286
37 (3)(d) and (e); [*or*]

38 (c) A marijuana grow site registered under ORS 475B.810, marijuana processing site registered
39 under ORS 475B.840, or a medical marijuana dispensary registered under ORS 475B.858, acting in
40 accordance with procedures adopted by the Oregon Liquor Control Commission under ORS
41 475B.167[.]; **or**

42 **(d) A marijuana grow site registered under ORS 475B.810, acting in accordance with ORS**
43 **475B.825 and any procedures adopted by rule by the commission.**

44 (3) The sale of marijuana items by a marijuana retailer that holds a license issued under ORS
45 475B.105 must be restricted to the premises for which the license has been issued, but deliveries

1 may be made by a marijuana retailer to consumers pursuant to a bona fide order received at the
2 premises prior to delivery.

3 (4) The commission may by order waive the requirements of subsections (1) and (2) of this sec-
4 tion to ensure compliance with ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to
5 475B.545. An order issued under this subsection does not constitute a waiver of any other require-
6 ment of ORS 475B.010 to 475B.545 or any other rule adopted under ORS 475B.010 to 475B.545.

7 **SECTION 10.** ORS 475B.211 is amended to read:

8 475B.211. **Except for a marijuana retailer registered under ORS 475B.146 to sell or deliver**
9 **marijuana items to a registry identification cardholder who is 18 years of age or older,** a
10 licensee or licensee representative may not sell or deliver a marijuana item to a person under 21
11 years of age.

12 **SECTION 11.** ORS 475B.216 is amended to read:

13 475B.216. (1) Subject to subsection (2) of this section, a licensee or licensee representative, be-
14 fore selling or providing a marijuana item to another person, must require the person to produce
15 one of the following pieces of identification:

16 (a) The person's passport, **issued by the United States or a foreign government.**

17 (b) The person's driver license, issued by the State of Oregon or another state of the United
18 States.

19 (c) An identification card issued under ORS 807.400.

20 (d) A United States military identification card.

21 (e) An identification card issued by a federally recognized Indian tribe.

22 (f) Any other identification card issued by a state or territory of the United States that bears
23 a picture of the person, the name of the person, the person's date of birth and a physical description
24 of the person.

25 (2) The Oregon Liquor Control Commission may adopt rules exempting a licensee or licensee
26 representative from this section.

27 **SECTION 12.** ORS 475B.256 is amended to read:

28 475B.256. (1) The Oregon Liquor Control Commission may revoke, suspend or restrict a license
29 issued under ORS 475B.010 to 475B.545 or require a licensee or licensee representative to undergo
30 training if the commission finds or has reasonable ground to believe any of the following to be true:

31 [(1)] (a) That the licensee or licensee representative:

32 [(a)] (A) Has violated a provision of ORS 475B.010 to 475B.545 or a rule adopted under ORS
33 475B.010 to 475B.545.

34 [(b)] (B) Has made any false representation or statement to the commission in order to induce
35 or prevent action by the commission.

36 [(c)] (C) Is insolvent or incompetent or physically unable to carry on the management of the
37 establishment of the licensee.

38 [(d)] (D) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana or controlled
39 substances to excess.

40 [(e)] (E) Has misrepresented to a customer or the public any marijuana items sold by the
41 licensee or licensee representative.

42 [(f)] (F) Since the issuance of the license, has been convicted of a felony, of violating any of the
43 marijuana laws of this state, general or local, or of any misdemeanor or violation of any municipal
44 ordinance committed on the premises for which the license has been issued.

45 [(2)] (b) That there is any other reason that, in the opinion of the commission, based on public

1 convenience or necessity, warrants revoking, suspending or restricting the license.

2 **(2)(a) The commission shall revoke a marijuana retailer license issued under ORS**
3 **475B.105 if the licensee fails to:**

4 **(A) Pay the tax as required under ORS 475B.710 twice in any four consecutive quarters**
5 **and the Department of Revenue has issued to the licensee a distraint warrant under ORS**
6 **475B.715 for the nonpayment of tax; or**

7 **(B) File a return as required under ORS 475B.710 twice in any four consecutive quarters**
8 **and the department has issued to the licensee a notice of determination and assessment**
9 **under ORS 475B.715 for failure to file a return.**

10 **(b) The department's written notice to the commission that a licensee described under**
11 **this subsection has failed to pay a tax or file a return twice in any four consecutive quarters,**
12 **and that the department has issued a distraint warrant or notice of determination and as-**
13 **essment, shall constitute prima facie evidence of the licensee's failure to pay the tax or file**
14 **a return.**

15 **SECTION 13.** ORS 475B.416, as amended by section 8, chapter 98, Oregon Laws 2018, is
16 amended to read:

17 475B.416. In addition to any other liability or penalty provided by law, the Oregon Liquor Con-
18 trol Commission may impose for each violation of a provision of ORS 475B.010 to 475B.545 or a rule
19 adopted under ORS 475B.010 to 475B.545 a civil penalty that does not exceed ~~[\$5,000]~~ **\$10,000** for
20 each violation. The commission shall impose civil penalties under this section in the manner pro-
21 vided by ORS 183.745. Moneys collected under this section shall be deposited in the General Fund.

22 **SECTION 14.** ORS 475B.577 is amended to read:

23 475B.577. (1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS
24 475B.560, the Oregon Liquor Control Commission may:

25 (a) Proceed with any investigation of, or any action or disciplinary proceeding against, the per-
26 son who held the license; or

27 (b) Revise or render void an order suspending or revoking the license.

28 (2) In cases involving the proposed denial of a license issued under ORS ~~[475B.010 to 475B.545]~~
29 **475B.560**, the applicant for licensure may not withdraw the applicant's application.

30 **SECTION 15.** ORS 475B.705 is amended to read:

31 475B.705. (1) A tax is hereby imposed upon the retail sale of marijuana items in this state. The
32 tax imposed by this section is a direct tax on the consumer, for which payment upon retail sale is
33 required. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer
34 at the time at which the retail sale occurs.

35 (2) The tax imposed under this section shall be imposed at the rate of:

36 (a) 17 percent of the retail sales price of ~~[marijuana leaves]~~ **usable marijuana;**

37 ~~[(b) 17 percent of the retail sales price of marijuana flowers;]~~

38 ~~[(c)]~~ **(b)** 17 percent of the retail sales price of immature marijuana plants;

39 ~~[(d)]~~ **(c)** 17 percent of the retail sales price of a cannabinoid edible;

40 ~~[(e)]~~ **(d)** 17 percent of the retail sales price of a cannabinoid concentrate;

41 ~~[(f)]~~ **(e)** 17 percent of the retail sales price of a cannabinoid extract;

42 ~~[(g)]~~ **(f)** 17 percent of the retail sales price of a cannabinoid product that is intended to be used
43 by applying the cannabinoid product to the skin or hair; and

44 ~~[(h)]~~ **(g)** 17 percent of the retail sales price of cannabinoid products other than those described
45 in paragraph ~~[(g)]~~ **(f)** of this subsection.

1 (3) If the tax imposed under this section does not equal an amount calculable to a whole cent,
2 the tax shall be equal to the next higher whole cent.

3 (4) Except as otherwise provided by the Department of Revenue by rule, the amount of the tax
4 shall be separately stated on an invoice, receipt or other similar document that the marijuana
5 retailer provides to the consumer at the time at which the retail sale occurs.

6 (5) A person may not knowingly sell, purchase, install, transfer or possess electronic devices or
7 software programs for the purposes of:

8 (a) Hiding or removing records of retail sales of marijuana items; or

9 (b) Falsifying records of retail sales of marijuana items.

10 (6)(a) A marijuana retailer may not discount a marijuana item or offer a marijuana item for free
11 if the retail sale of the marijuana item is made in conjunction with the retail sale of any other item.

12 (b) Paragraph (a) of this subsection does not affect any provision of ORS 475B.010 to 475B.545
13 or any rule adopted by the Oregon Liquor Control Commission pursuant to ORS 475B.010 to
14 475B.545 that is related to the retail sale of marijuana items.

15 **SECTION 16.** ORS 475B.710 is amended to read:

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

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

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

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

28 (5) For good cause, the department may extend the time for filing a return under this section.
29 The extension may be granted at any time if a written request is filed with the department during
30 or prior to the period for which the extension may be granted. The department may not grant an
31 extension of more than 30 days.

32 (6) Interest shall be added at the rate established under ORS 305.220 from the time the return
33 was originally required to be filed to the time of payment.

34 (7) If a marijuana retailer fails to file a return or pay the tax as required by this section, the
35 department shall:

36 (a) Impose a penalty in the manner provided in ORS 314.400[.]; and

37 (b) **If the department has issued to the marijuana retailer a distraint warrant or notice**
38 **of determination and assessment under ORS 475B.715, provide written notification to the**
39 **Oregon Liquor Control Commission of the issuance of the distraint warrant or notice of de-**
40 **termination and assessment.**

41 (8) Except as provided in subsections (9) and (10) of this section, the period prescribed for the
42 department to allow or make a refund of any overpayment of tax paid under ORS 475B.700 to
43 475B.760 is as provided in ORS 314.415.

44 (9)(a) The department shall first apply any overpayment of tax by a marijuana retailer to any
45 marijuana tax that is owed by the marijuana retailer.

1 (b) If after any offset against any delinquent amount the overpayment of tax remains greater
2 than \$1,000, the remaining refund shall be applied as a credit against the next subsequent calendar
3 quarter as an estimated payment.

4 (10) The department may not make a refund of, or credit, any overpayment of tax under ORS
5 475B.700 to 475B.760 that was credited to the account of a marijuana retailer under subsection (9)(b)
6 of this section if the return for that tax period is not filed within three years after the due date of
7 that return.

8 **SECTION 17.** The amendments to ORS 475B.074 by section 5 of this 2019 Act apply to
9 applications for licenses under ORS 475B.070 submitted before, on or after January 1, 2020.

10 **SECTION 18.** The amendments to ORS 475B.256 by section 12 of this 2019 Act apply to
11 tax years beginning on or after January 1, 2020.

12 **SECTION 19.** The amendments to ORS 475B.705 by section 15 of this 2019 Act apply to
13 the retail sale of marijuana items occurring on and after January 1, 2020.

14 **SECTION 20.** (1) Section 1 of this 2019 Act and the amendments to ORS 475B.015,
15 475B.025, 475B.045, 475B.074, 475B.096, 475B.186, 475B.199, 475B.206, 475B.211, 475B.216,
16 475B.256, 475B.416, 475B.577, 475B.705 and 475B.710 by sections 2 to 16 of this 2019 Act become
17 operative on January 1, 2020.

18 (2) The Department of Revenue and the Oregon Liquor Control Commission may take any
19 action before the operative date specified in subsection (1) of this section that is necessary
20 to enable the department and the commission to exercise, on and after the operative date
21 specified in subsection (1) of this section, all of the duties, functions and powers conferred
22 on the department and the commission by section 1 of this 2019 Act and by the amendments
23 to ORS 475B.015, 475B.025, 475B.045, 475B.074, 475B.096, 475B.186, 475B.199, 475B.206, 475B.211,
24 475B.216, 475B.256, 475B.416, 475B.577, 475B.705 and 475B.710 by sections 2 to 16 of this 2019
25 Act.

26 **SECTION 21.** This 2019 Act being necessary for the immediate preservation of the public
27 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
28 on its passage.

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