

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2098

By COMMITTEE ON BUSINESS AND GENERAL GOVERNMENT

May 17

1 On page 1 of the printed A-engrossed bill, delete line 4 and insert “475B.550, 475B.577, 475B.600,
2 475B.705, 475B.710 and 475B.791; and declaring an emergency.”.

3 Delete lines 6 through 19 and delete pages 2 through 11 and insert:

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

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

10 **“(b) Stakeholders in the marijuana industry; and**

11 **“(c) Individuals who have expertise in the potency testing of marijuana and marijuana**
12 **items.**

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

14 **“SECTION 2. Section 3 of this 2019 Act is added to and made a part of ORS chapter 689.**

15 **“SECTION 3. (1) A pharmacist may dispense to a patient, pursuant to a prescription from**
16 **a practitioner, a prescription drug that is approved by the United States Food and Drug Ad-**
17 **ministration and that contains one or more cannabinoids.**

18 **“(2) The State Board of Pharmacy may adopt rules to carry out this section.**

19 **“SECTION 4. ORS 475B.015 is amended to read:**

20 **“475B.015. As used in ORS 475B.010 to 475B.545:**

21 **“(1) ‘Cannabinoid’ means any of the chemical compounds that are the active constituents [of]**
22 **derived from marijuana.**

23 **“(2) ‘Cannabinoid concentrate’ means a substance obtained by separating cannabinoids from**
24 **marijuana by:**

25 **“(a) A mechanical extraction process;**

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

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

30 **“(d) Any other process identified by the Oregon Liquor Control Commission, in consultation with**
31 **the Oregon Health Authority, by rule.**

32 **“(3) ‘Cannabinoid edible’ means food or potable liquid into which a cannabinoid concentrate,**
33 **cannabinoid extract or dried marijuana leaves or flowers have been incorporated.**

34 **“(4) ‘Cannabinoid extract’ means a substance obtained by separating cannabinoids from**
35 **marijuana by:**

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

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

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

6 “(5)(a) ‘Cannabinoid product’ means a cannabinoid edible and any other product intended for
7 human consumption or use, including a product intended to be applied to the skin or hair, that
8 contains cannabinoids or dried marijuana leaves or flowers.

9 “(b) ‘Cannabinoid product’ does not include:

10 “(A) Usable marijuana by itself;

11 “(B) A cannabinoid concentrate by itself;

12 “(C) A cannabinoid extract by itself; or

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

14 “(6) ‘Consumer’ means a person who purchases, acquires, owns, holds or uses marijuana items
15 other than for the purpose of resale.

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

18 “(8) ‘Designated primary caregiver’ has the meaning given that term in ORS 475B.791.

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

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

23 “(10) ‘Homegrown’ means grown by a person 21 years of age or older for noncommercial pur-
24 poses.

25 “(11) ‘Household’ means a housing unit and any place in or around a housing unit at which the
26 occupants of the housing unit are producing, processing, possessing or storing homegrown
27 marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

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

32 “(13) ‘Immature marijuana plant’ means a marijuana plant that is not flowering.

33 “(14) ‘Licensee’ means a person that holds a license issued under ORS 475B.070, 475B.090,
34 475B.100 or 475B.105.

35 “(15) ‘Licensee representative’ means an owner, director, officer, manager, employee, agent or
36 other representative of a licensee, to the extent that the person acts in a representative capacity.

37 “(16)(a) ‘Manufacture’ means producing, propagating, preparing, compounding, converting or
38 processing a marijuana item, either directly or indirectly, by extracting from substances of natural
39 origin.

40 “(b) ‘Manufacture’ includes any packaging or repackaging of a marijuana item or the labeling
41 or relabeling of a container containing a marijuana item.

42 “(17)(a) ‘Marijuana’ means the plant Cannabis family Cannabaceae, any part of the plant
43 Cannabis family Cannabaceae and marijuana seeds.

44 “[(b) ‘Marijuana’ does not include industrial hemp, as defined in ORS 571.300.]

45 “(b) **‘Marijuana’ does not include:**

1 **“(A) Industrial hemp, as defined in ORS 571.300; or**
2 **“(B) Prescription drugs, as that term is defined in ORS 689.005, including those contain-**
3 **ing one or more cannabinoids, that are approved by the United States Food and Drug Ad-**
4 **ministration and dispensed by a pharmacy, as defined in ORS 689.005.**
5 “(18) ‘Marijuana flowers’ means the flowers of the plant genus Cannabis within the plant family
6 Cannabaceae.
7 “(19) ‘Marijuana items’ means marijuana, cannabinoid products, cannabinoid concentrates and
8 cannabinoid extracts.
9 “(20) ‘Marijuana leaves’ means the leaves of the plant genus Cannabis within the plant family
10 Cannabaceae.
11 “(21) ‘Marijuana processor’ means a person that processes marijuana items in this state.
12 “(22) ‘Marijuana producer’ means a person that produces marijuana in this state.
13 “(23) ‘Marijuana retailer’ means a person that sells marijuana items to a consumer in this state.
14 “(24)(a) ‘Marijuana seeds’ means the seeds of the plant Cannabis family Cannabaceae.
15 “(b) ‘Marijuana seeds’ does not include the seeds of industrial hemp, as defined in ORS 571.300.
16 “(25) ‘Marijuana wholesaler’ means a person that purchases marijuana items in this state for
17 resale to a person other than a consumer.
18 “(26) ‘Mature marijuana plant’ means a marijuana plant that is not an immature marijuana
19 plant.
20 “(27) ‘Medical grade cannabinoid product, cannabinoid concentrate or cannabinoid extract’
21 means a cannabinoid product, cannabinoid concentrate or cannabinoid extract that has a concen-
22 tration of tetrahydrocannabinol that is permitted under ORS 475B.625 in a single serving of the
23 cannabinoid product, cannabinoid concentrate or cannabinoid extract for consumers who hold a
24 valid registry identification card issued under ORS 475B.797.
25 “(28) ‘Medical purpose’ means a purpose related to using usable marijuana, cannabinoid pro-
26 ducts, cannabinoid concentrates or cannabinoid extracts to mitigate the symptoms or effects of a
27 debilitating medical condition, as defined in ORS 475B.791.
28 “(29) ‘Noncommercial’ means not dependent or conditioned upon the provision or receipt of fi-
29 nancial consideration.
30 “(30)(a) ‘Premises’ includes the following areas of a location licensed under ORS 475B.010 to
31 475B.545:
32 “(A) All public and private enclosed areas at the location that are used in the business operated
33 at the location, including offices, kitchens, rest rooms and storerooms;
34 “(B) All areas outside a building that the commission has specifically licensed for the processing,
35 wholesale sale or retail sale of marijuana items; and
36 “(C) For a location that the commission has specifically licensed for the production of marijuana
37 outside a building, that portion of the location used to produce marijuana.
38 “(b) ‘Premises’ does not include a primary residence.
39 “(31)(a) ‘Processes’ means the processing, compounding or conversion of marijuana into
40 cannabinoid products, cannabinoid concentrates or cannabinoid extracts.
41 “(b) ‘Processes’ does not include packaging or labeling.
42 “(32)(a) ‘Produces’ means the manufacture, planting, cultivation, growing or harvesting of
43 marijuana.
44 “(b) ‘Produces’ does not include:
45 “(A) The drying of marijuana by a marijuana processor, if the marijuana processor is not oth-

1 erwise producing marijuana; or

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

5 “(33) ‘Propagate’ means to grow immature marijuana plants or to breed or produce marijuana
6 seeds.

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

11 “(35) ‘Registry identification cardholder’ has the meaning given that term in ORS 475B.791.

12 “(36)(a) ‘Usable marijuana’ means the dried leaves and flowers of marijuana.

13 “(b) ‘Usable marijuana’ does not include:

14 “(A) Marijuana seeds;

15 “(B) The stalks and roots of marijuana; or

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

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

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

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

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

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

31 “(c) To adopt, amend or repeal rules as necessary to carry out the intent and provisions of ORS
32 475B.010 to 475B.545, including rules that the commission considers necessary to protect the public
33 health and safety.

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

38 “(A) Issuing subpoenas;

39 “(B) Compelling the attendance of witnesses;

40 “(C) Administering oaths;

41 “(D) Certifying official acts;

42 “(E) Taking depositions as provided by law;

43 “(F) Compelling the production of books, payrolls, accounts, papers, records, documents and
44 testimony; and

45 “(G) Establishing fees in addition to the application, licensing and renewal fees described in ORS

1 475B.070, 475B.090, 475B.100 and 475B.105, provided that any fee established by the commission is
2 reasonably calculated not to exceed the cost of the activity for which the fee is charged.

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

4 “(A) That is appealing to minors;

5 “(B) That promotes excessive use;

6 “(C) That promotes illegal activity; or

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

8 “(f) To regulate the use of marijuana items for other purposes as deemed necessary or appro-
9 priate by the commission.

10 “(g) **To establish pilot programs, of not more than three years in duration, to expand**
11 **access to marijuana for medical use for registry identification cardholders and designated**
12 **primary caregivers, as defined in ORS 475B.791.**

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

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

16 “475B.045. (1) The Oregon Liquor Control Commission may not license an applicant under the
17 provisions of ORS 475B.010 to 475B.545 **or 475B.560** if the applicant is under 21 years of age.

18 “(2) The commission may refuse to issue a license or may issue a restricted license to an ap-
19 plicant under the provisions of ORS 475B.010 to 475B.545 if the commission makes a finding that the
20 applicant:

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

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

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

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

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

30 “(f) Does not have a good record of compliance with ORS 475B.010 to 475B.545 or any rule
31 adopted under ORS 475B.010 to 475B.545.

32 “(g) Is not the legitimate owner of the premises proposed to be licensed, or has not disclosed
33 that other persons have ownership interests in the premises proposed to be licensed.

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

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

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

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

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

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

1 “(b) The delivery of marijuana to a person 21 years of age or older, if:
2 “(A) The date of the conviction is two or more years before the date of the application; and
3 “(B) The person has not been convicted more than once for the manufacture or delivery of
4 marijuana; or
5 “(c) The possession of marijuana.
6 “**SECTION 7.** ORS 475B.074 is amended to read:
7 “475B.074. (1) The requirement under ORS 475B.063 to obtain a land use compatibility statement
8 as a condition of receiving a license under ORS 475B.070 does not apply to an applicant if:
9 “[1] (a) The applicant is applying for a license at an address where a marijuana grow site
10 registered under ORS 475B.810 is located;
11 “[2] (b) The address is outside of city limits;
12 “[3] (c) At least one person responsible for a marijuana grow site located at the address first
13 registered with the Oregon Health Authority under ORS 475B.810 before January 1, 2015, **and is**
14 **registered with the authority under ORS 475B.810 on the date on which the applicant sub-**
15 **mitted the application for a license under ORS 475B.070;**
16 “[4] (d) Each person responsible for a marijuana grow site located at the address first regis-
17 tered with the [Oregon Health] authority under ORS 475B.810 before February 1, 2016, **and is reg-**
18 **istered with the authority under ORS 475B.810 on the date on which the applicant submitted**
19 **the application for a license under ORS 475B.070;** and
20 “[5] (e) The applicant is applying for a mature marijuana plant grow canopy of:
21 “[a] (A) 5,000 square feet or less, if the marijuana is produced outdoors; or
22 “[b] (B) 1,250 square feet or less, if the marijuana is produced indoors.
23 “(2) **For purposes of this section, an applicant for a license under ORS 475B.070 is not**
24 **required to demonstrate that:**
25 “(a) **At least one person responsible for a marijuana grow site located at the address for**
26 **which the applicant is applying for a license has been continuously registered with the au-**
27 **thority under ORS 475B.810 between January 1, 2015, and the date on which the applicant**
28 **applies for a license under ORS 475B.070; or**
29 “(b) **Each person responsible for a marijuana grow site located at the address for which**
30 **the applicant is applying for a license has been continuously registered with the authority**
31 **under ORS 475B.810 between February 1, 2016, and the date on which the applicant applies**
32 **for a license under ORS 475B.070.**
33 “**SECTION 8.** ORS 475B.096 is amended to read:
34 “475B.096. (1) Notwithstanding ORS 475B.090, a marijuana producer that holds a license issued
35 under ORS 475B.070 and has a mature marijuana plant grow canopy described in subsection (2) of
36 this section may process marijuana into a cannabinoid concentrate if the process involves separating
37 cannabinoids from marijuana by:
38 “(a) A mechanical process; or
39 “(b) An extraction process using water as the solvent.
40 “(2) To be eligible to process marijuana into a cannabinoid concentrate under this section, a
41 marijuana producer must have a mature marijuana plant grow canopy, as restricted by the Oregon
42 Liquor Control Commission under ORS 475B.085, that does not exceed:
43 “(a) For marijuana grown outdoors, 5,000 square feet; or
44 “(b) For marijuana grown indoors, 1,250 square feet.
45 “(3)(a) **A marijuana producer that holds a license issued under ORS 475B.070 and that has**

1 a plant grow canopy determined by rule by the commission, may produce and transfer kief.

2 “(b) For purposes of this subsection, ‘kief’ means the resinous trichomes of marijuana
3 that accumulate or fall off when marijuana flowers are sifted through a mesh screen or
4 sieve.

5 “[3] (4) The processing of marijuana under this section must comport with any reasonable
6 condition adopted under ORS 475B.486 that is imposed on the manner in which a marijuana
7 processor licensed under ORS 475B.090 may process marijuana.

8 “**SECTION 9.** ORS 475B.186 is amended to read:

9 “475B.186. (1) The Legislative Assembly finds and declares that the unregulated commerce of
10 marijuana items constitutes a serious danger to public health and safety.

11 “(2)(a) A person may not produce, process, transport, deliver or sell a marijuana item
12 unless the person holds a valid license issued under ORS 475B.010 to 475B.545 or a registra-
13 tion issued under ORS 475B.785 to 475B.949 or is exempted under ORS 475B.301.

14 “(b) A licensee is engaged in the unregulated commerce of marijuana items if the licensee
15 allows a person who does not hold a license issued under ORS 475B.010 to 475B.545 or
16 475B.560 to engage in an activity that requires a license issued under ORS 475B.010 to
17 475B.545 or 475B.560.

18 “[2] (3) In addition to any other disciplinary action available to the Oregon Liquor Control
19 Commission under ORS 475B.010 to 475B.545 or 475B.550 to 475B.590, the commission may imme-
20 diately:

21 “(a) Restrict, suspend or refuse to renew a license issued under ORS 475B.010 to 475B.545 or
22 475B.560 if circumstances create probable cause for the commission to conclude that a licensee
23 has:

24 “(A) Purchased or received a marijuana item from an unlicensed source [*or that a licensee*
25 *has*]; or

26 “(B) Sold, stored or transferred a marijuana item in a manner that is not permitted by the
27 licensee’s license[.];

28 “(b) Restrict, suspend or refuse to renew a license issued under ORS 475B.010 to 475B.545
29 or 475B.560 if circumstances create probable cause for the commission to believe that a
30 person who does not hold a license issued under ORS 475B.010 to 475B.545 or 475B.560 for the
31 licensed premises engaged, or is engaging, in an activity that requires a license under ORS
32 475B.010 to 475B.545 or 475B.560; or

33 “(c) Seize marijuana items from a licensee if circumstances create probable cause for the
34 commission to conclude that the licensee has:

35 “(A) Engaged, or is engaging, in the unlawful diversion of marijuana items; or

36 “(B) Allowed, or is allowing, a person who does not hold a license issued under ORS
37 475B.010 to 475B.545 or 475B.560 to engage in an activity that requires a license issued under
38 ORS 475B.010 to 475B.545 or 475B.560 at the premises for which a license is issued.

39 “**SECTION 10.** ORS 475B.199 is amended to read:

40 “475B.199. (1) Notwithstanding the lapse, suspension or revocation of a permit issued under ORS
41 475B.266, the Oregon Liquor Control Commission may:

42 “(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the
43 person who held the permit; or

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

45 “(2) In cases involving the proposed denial of a [*license issued under ORS 475B.010 to 475B.545,*

1 *the applicant for licensure*] **permit issued under ORS 475B.266, the applicant for the permit** may
2 not withdraw the applicant's application.

3 **"SECTION 11.** ORS 475B.206 is amended to read:

4 "475B.206. (1) Except as provided in ORS 475B.136 and 475B.873, a marijuana producer that
5 holds a license issued under ORS 475B.070, marijuana processor that holds a license issued under
6 ORS 475B.090 or marijuana wholesaler that holds a license issued under ORS 475B.100 may deliver
7 marijuana items only to or on a premises for which a license has been issued under ORS 475B.070,
8 475B.090, 475B.100 or 475B.105, or to a registry identification cardholder or designated primary
9 caregiver as allowed under ORS 475B.010 to 475B.545.

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

12 "(a) A marijuana producer that holds a license issued under ORS 475B.070, marijuana processor
13 that holds a license issued under ORS 475B.090, marijuana wholesaler that holds a license issued
14 under ORS 475B.100, [*or*] marijuana retailer that holds a license issued under ORS 475B.105 **or a**
15 **laboratory licensed under ORS 475B.560;**

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

20 "(c) A marijuana grow site registered under ORS 475B.810, marijuana processing site registered
21 under ORS 475B.840, or a medical marijuana dispensary registered under ORS 475B.858, acting in
22 accordance with procedures adopted by the Oregon Liquor Control Commission under ORS
23 475B.167[.]; **or**

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

26 "(3) The sale of marijuana items by a marijuana retailer that holds a license issued under ORS
27 475B.105 must be restricted to the premises for which the license has been issued, but deliveries
28 may be made by a marijuana retailer to consumers pursuant to a bona fide order received at the
29 premises prior to delivery.

30 "(4) The commission may by order waive the requirements of subsections (1) and (2) of this
31 section to ensure compliance with ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010
32 to 475B.545. An order issued under this subsection does not constitute a waiver of any other re-
33 quirement of ORS 475B.010 to 475B.545 or any other rule adopted under ORS 475B.010 to 475B.545.

34 **"SECTION 12.** ORS 475B.211 is amended to read:

35 "475B.211. **Except for a marijuana retailer registered under ORS 475B.146 to sell or deliver**
36 **marijuana items to a registry identification cardholder who is 18 years of age or older,** a
37 licensee or licensee representative may not sell or deliver a marijuana item to a person under 21
38 years of age.

39 **"SECTION 13.** ORS 475B.216 is amended to read:

40 "475B.216. (1) Subject to subsection (2) of this section, a licensee or licensee representative,
41 before selling or providing a marijuana item to another person, must require the person to produce
42 one of the following pieces of identification:

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

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

1 “(c) An identification card issued under ORS 807.400.
2 “(d) A United States military identification card.
3 “(e) An identification card issued by a federally recognized Indian tribe.
4 “(f) Any other identification card issued by a state or territory of the United States that bears
5 a picture of the person, the name of the person, the person’s date of birth and a physical description
6 of the person.
7 “(g) **The person’s proof of participation in the United States Customs and Border Pro-**
8 **tection Secure Electronic Network for Travelers Rapid Inspection program or NEXUS pro-**
9 **gram, or successor programs.**
10 “(2) The Oregon Liquor Control Commission may adopt rules exempting a licensee or licensee
11 representative from this section.
12 “**SECTION 14.** ORS 475B.256 is amended to read:
13 “475B.256. (1) The Oregon Liquor Control Commission may revoke, suspend or restrict a license
14 issued under ORS 475B.010 to 475B.545 or require a licensee or licensee representative to undergo
15 training if the commission finds or has reasonable ground to believe any of the following to be true:
16 “[1] (a) That the licensee or licensee representative:
17 “[a] (A) Has violated a provision of ORS 475B.010 to 475B.545 or a rule adopted under ORS
18 475B.010 to 475B.545.
19 “[b] (B) Has made any false representation or statement to the commission in order to induce
20 or prevent action by the commission.
21 “[c] (C) Is insolvent or incompetent or physically unable to carry on the management of the
22 establishment of the licensee.
23 “[d] (D) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana or controlled
24 substances to excess.
25 “[e] (E) Has misrepresented to a customer or the public any marijuana items sold by the
26 licensee or licensee representative.
27 “[f] (F) Since the issuance of the license, has been convicted of a felony, of violating any of
28 the marijuana laws of this state, general or local, or of any misdemeanor or violation of any mu-
29 nicipal ordinance committed on the premises for which the license has been issued.
30 “[2] (b) That there is any other reason that, in the opinion of the commission, based on public
31 convenience or necessity, warrants revoking, suspending or restricting the license.
32 “(2)(a) **The commission shall revoke a marijuana retailer license issued under ORS**
33 **475B.105 if the licensee fails to:**
34 “(A) **Pay the tax as required under ORS 475B.710 twice in any four consecutive quarters**
35 **and the Department of Revenue has issued to the licensee a distraint warrant under ORS**
36 **475B.715 for the nonpayment of tax; or**
37 “(B) **File a return as required under ORS 475B.710 twice in any four consecutive quarters**
38 **and the department has issued to the licensee a notice of determination and assessment**
39 **under ORS 475B.715 for failure to file a return.**
40 “(b) **The department’s written notice to the commission that a licensee described under**
41 **this subsection has failed to pay a tax or file a return twice in any four consecutive quarters,**
42 **and that the department has issued a distraint warrant or notice of determination and as-**
43 **essment, shall constitute prima facie evidence of the licensee’s failure to pay the tax or file**
44 **a return.**
45 “**SECTION 15.** ORS 475B.416, as amended by section 8, chapter 98, Oregon Laws 2018, is

1 amended to read:

2 “475B.416. In addition to any other liability or penalty provided by law, the Oregon Liquor
3 Control Commission may impose for each violation of a provision of ORS 475B.010 to 475B.545 or
4 a rule adopted under ORS 475B.010 to 475B.545 a civil penalty that does not exceed [,\$5,000] **\$10,000**
5 for each violation. The commission shall impose civil penalties under this section in the manner
6 provided by ORS 183.745. Moneys collected under this section shall be deposited in the General
7 Fund.

8 “**SECTION 16.** ORS 475B.550 is amended to read:

9 “475B.550. As used in ORS 475B.550 to 475B.590:

10 “(1) ‘Cannabinoid’ means any of the chemical compounds that are the active constituents of
11 marijuana.

12 “(2) ‘Cannabinoid concentrate or extract’ means a substance obtained by separating
13 cannabinoids from marijuana by a mechanical, chemical or other process.

14 “(3) ‘Cannabinoid edible’ means food or potable liquid into which a cannabinoid concentrate or
15 extract or the dried leaves or flowers of marijuana have been incorporated.

16 “(4)(a) ‘Cannabinoid product’ means a cannabinoid edible or any other product intended for hu-
17 man consumption or use, including a product intended to be applied to a person’s skin or hair, that
18 contains cannabinoids or the dried leaves or flowers of marijuana.

19 “(b) ‘Cannabinoid product’ does not include:

20 “(A) Usable marijuana by itself;

21 “(B) A cannabinoid concentrate or extract by itself; or

22 “(C) Industrial hemp, as defined in ORS 571.300.

23 “(5)(a) ‘Marijuana’ means the plant Cannabis family Cannabaceae, any part of the plant
24 Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

25 “(b) ‘Marijuana’ does not include:

26 “(A) Industrial hemp, as defined in ORS 571.300; or

27 “(B) **Prescription drugs, as that term is defined in ORS 689.005, including those contain-**
28 **ing one or more cannabinoids, that are approved by the United States Food and Drug Ad-**
29 **ministration and dispensed by a pharmacy, as defined in ORS 689.005.**

30 “(6) ‘Marijuana item’ means marijuana, usable marijuana, a cannabinoid product or a
31 cannabinoid concentrate or extract.

32 “(7) ‘Processing’ means the compounding or conversion of marijuana into cannabinoid products
33 or cannabinoid concentrates or extracts.

34 “(8) ‘Producing’ means:

35 “(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

36 “(b) Drying marijuana leaves and flowers.

37 “(9)(a) ‘Usable marijuana’ means the dried leaves and flowers of marijuana.

38 “(b) ‘Usable marijuana’ does not include:

39 “(A) The seeds, stalks and roots of marijuana; or

40 “(B) Waste material that is a by-product of producing or processing marijuana.

41 “**SECTION 17.** ORS 475B.577 is amended to read:

42 “475B.577. (1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS
43 475B.560, the Oregon Liquor Control Commission may:

44 “(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the
45 person who held the license; or

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

2 “(2) In cases involving the proposed denial of a license issued under ORS [475B.010 to

3 475B.545] **475B.560**, the applicant for licensure may not withdraw the applicant’s application.

4 “**SECTION 18.** ORS 475B.600 is amended to read:

5 “475B.600. As used in ORS 475B.600 to 475B.655:

6 “(1) ‘Cannabinoid’ means any of the chemical compounds that are the active constituents of

7 marijuana.

8 “(2) ‘Cannabinoid concentrate or extract’ means a substance obtained by separating

9 cannabinoids from marijuana by a mechanical, chemical or other process.

10 “(3) ‘Cannabinoid edible’ means food or potable liquid into which a cannabinoid concentrate or

11 extract or the dried leaves or flowers of marijuana have been incorporated.

12 “(4)(a) ‘Cannabinoid product’ means a cannabinoid edible or any other product intended for hu-

13 man consumption or use, including a product intended to be applied to a person’s skin or hair, that

14 contains cannabinoids or the dried leaves or flowers of marijuana.

15 “(b) ‘Cannabinoid product’ does not include:

16 “(A) Usable marijuana by itself;

17 “(B) A cannabinoid concentrate or extract by itself; or

18 “(C) Industrial hemp, as defined in ORS 571.300.

19 “(5)(a) ‘Marijuana’ means the plant Cannabis family Cannabaceae, any part of the plant

20 Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

21 “(b) ‘Marijuana’ does not include:

22 “(A) Industrial hemp, as defined in ORS 571.300; or

23 “(B) **Prescription drugs, as that term is defined in ORS 689.005, including those contain-**

24 **ing one or more cannabinoids, that are approved by the United States Food and Drug Ad-**

25 **ministration and dispensed by a pharmacy, as defined in ORS 689.005.**

26 “(6) ‘Marijuana item’ means marijuana, usable marijuana, a cannabinoid product or a

27 cannabinoid concentrate or extract.

28 “(7) ‘Processing’ means the compounding or conversion of marijuana into cannabinoid products

29 or cannabinoid concentrates or extracts.

30 “(8) ‘Producing’ means:

31 “(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

32 “(b) Drying marijuana leaves and flowers.

33 “(9)(a) ‘Usable marijuana’ means the dried leaves and flowers of marijuana.

34 “(b) ‘Usable marijuana’ does not include:

35 “(A) The seeds, stalks and roots of marijuana; or

36 “(B) Waste material that is a by-product of producing or processing marijuana.

37 “**SECTION 19.** ORS 475B.705 is amended to read:

38 “475B.705. (1) A tax is hereby imposed upon the retail sale of marijuana items in this state. The

39 tax imposed by this section is a direct tax on the consumer, for which payment upon retail sale is

40 required. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer

41 at the time at which the retail sale occurs.

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

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

44 “[*(b) 17 percent of the retail sales price of marijuana flowers*];

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

1 “[(d)] (c) 17 percent of the retail sales price of a cannabinoid edible;
2 “[(e)] (d) 17 percent of the retail sales price of a cannabinoid concentrate;
3 “[(f)] (e) 17 percent of the retail sales price of a cannabinoid extract;
4 “[(g)] (f) 17 percent of the retail sales price of a cannabinoid product that is intended to be used
5 by applying the cannabinoid product to the skin or hair; and
6 “[(h)] (g) 17 percent of the retail sales price of cannabinoid products other than those described
7 in paragraph [(g)] (f) of this subsection.

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

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

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

15 “(a) Hiding or removing records of retail sales of marijuana items; or
16 “(b) Falsifying records of retail sales of marijuana items.

17 “(6)(a) A marijuana retailer may not discount a marijuana item or offer a marijuana item for free
18 if the retail sale of the marijuana item is made in conjunction with the retail sale of any other item.
19 “(b) Paragraph (a) of this subsection does not affect any provision of ORS 475B.010 to 475B.545
20 or any rule adopted by the Oregon Liquor Control Commission pursuant to ORS 475B.010 to
21 475B.545 that is related to the retail sale of marijuana items.

22 “**SECTION 20.** ORS 475B.710 is amended to read:

23 “475B.710. (1) Except as otherwise provided in ORS 475B.700 to 475B.760, the tax imposed upon
24 the consumer under ORS 475B.705 shall be collected at the point of sale and remitted by each
25 marijuana retailer that engages in the retail sale of marijuana items. The tax is considered a tax
26 upon the marijuana retailer that is required to collect the tax, and the marijuana retailer is con-
27 sidered a taxpayer.

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

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

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

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

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

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

43 “(a) Impose a penalty in the manner provided in ORS 314.400[.]; and
44 “(b) **If the department has issued to the marijuana retailer a distraint warrant or notice**
45 **of determination and assessment under ORS 475B.715, provide written notification to the**

1 **Oregon Liquor Control Commission of the issuance of the distraint warrant or notice of de-**
2 **termination and assessment.**

3 “(8) Except as provided in subsections (9) and (10) of this section, the period prescribed for the
4 department to allow or make a refund of any overpayment of tax paid under ORS 475B.700 to
5 475B.760 is as provided in ORS 314.415.

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

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

11 “(10) The department may not make a refund of, or credit, any overpayment of tax under ORS
12 475B.700 to 475B.760 that was credited to the account of a marijuana retailer under subsection (9)(b)
13 of this section if the return for that tax period is not filed within three years after the due date of
14 that return.

15 **“SECTION 21.** ORS 475B.791 is amended to read:

16 **“475B.791.** As used in ORS 475B.785 to 475B.949:

17 “(1) ‘Attending physician’ means a physician licensed under ORS chapter 677 who has primary
18 responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

19 “(2) ‘Cannabinoid’ means any of the chemical compounds that are the active constituents of
20 marijuana.

21 “(3) ‘Cannabinoid concentrate’ means a substance obtained by separating cannabinoids from
22 marijuana by:

23 “(a) A mechanical extraction process;

24 “(b) A chemical extraction process using a nonhydrocarbon-based solvent, such as vegetable
25 glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

26 “(c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided
27 that the process does not involve the use of high heat or pressure; or

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

30 “(4) ‘Cannabinoid edible’ means food or potable liquid into which a cannabinoid concentrate,
31 cannabinoid extract or dried leaves or flowers of marijuana have been incorporated.

32 “(5) ‘Cannabinoid extract’ means a substance obtained by separating cannabinoids from
33 marijuana by:

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

36 “(b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the
37 process uses high heat or pressure; or

38 “(c) Any other process identified by the Oregon Health Authority, in consultation with the
39 Oregon Liquor Control Commission, by rule.

40 “(6) ‘Debilitating medical condition’ means:

41 “(a) Cancer, glaucoma, a degenerative or pervasive neurological condition, positive status for
42 human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to
43 the treatment of those medical conditions;

44 “(b) A medical condition or treatment for a medical condition that produces, for a specific pa-
45 tient, one or more of the following:

1 “(A) Cachexia;
2 “(B) Severe pain;
3 “(C) Severe nausea;
4 “(D) Seizures, including seizures caused by epilepsy; or
5 “(E) Persistent muscle spasms, including spasms caused by multiple sclerosis;
6 “(c) Post-traumatic stress disorder; or
7 “(d) Any other medical condition or side effect related to the treatment of a medical condition
8 adopted by the Oregon Health Authority by rule or approved by the authority pursuant to a petition
9 filed under ORS 475B.946.
10 “(7)(a) ‘Delivery’ has the meaning given that term in ORS 475.005.
11 “(b) ‘Delivery’ does not include transfer of marijuana by a registry identification cardholder to
12 another registry identification cardholder if no consideration is paid for the transfer.
13 “(8)(a) ‘Designated primary caregiver’ means an individual:
14 “(A) Who is 18 years of age or older;
15 “(B) Who has significant responsibility for managing the well-being of a person who has been
16 diagnosed with a debilitating medical condition; and
17 “(C) Who is designated as the person responsible for managing the well-being of a person who
18 has been diagnosed with a debilitating medical condition on that person’s application for a registry
19 identification card or in other written notification submitted to the authority.
20 “(b) ‘Designated primary caregiver’ does not include a person’s attending physician.
21 “(9) ‘High heat’ means a temperature exceeding 180 degrees.
22 “(10) ‘Immature marijuana plant’ means a marijuana plant that is not flowering.
23 “(11)(a) ‘Marijuana’ means the plant Cannabis family Cannabaceae, any part of the plant
24 Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
25 “(b) ‘Marijuana’ does not include:
26 “(A) Industrial hemp, as defined in ORS 571.300; or
27 “(B) **Prescription drugs, as that term is defined in ORS 689.005, including those contain-**
28 **ing one or more cannabinoids, that are approved by the United States Food and Drug Ad-**
29 **ministration and dispensed by a pharmacy, as defined in ORS 689.005.**
30 “(12) ‘Marijuana grow site’ means a location registered under ORS 475B.810 where marijuana
31 is produced for use by a registry identification cardholder.
32 “(13) ‘Marijuana processing site’ means a marijuana processing site registered under ORS
33 475B.840 or a site for which an applicant has submitted an application for registration under ORS
34 475B.840.
35 “(14) ‘Mature marijuana plant’ means a marijuana plant that is not an immature marijuana
36 plant.
37 “(15)(a) ‘Medical cannabinoid product’ means a cannabinoid edible and any other product in-
38 tended for human consumption or use, including a product intended to be applied to a person’s skin
39 or hair, that contains cannabinoids or dried leaves or flowers of marijuana.
40 “(b) ‘Medical cannabinoid product’ does not include:
41 “(A) Usable marijuana by itself;
42 “(B) A cannabinoid concentrate by itself;
43 “(C) A cannabinoid extract by itself; or
44 “(D) Industrial hemp, as defined in ORS 571.300.
45 “(16) ‘Medical marijuana dispensary’ means a medical marijuana dispensary registered under

1 ORS 475B.858 or a site for which an applicant has submitted an application for registration under
2 ORS 475B.858.

3 “(17) ‘Medical use of marijuana’ means the production, processing, possession, delivery or ad-
4 ministration of marijuana, or use of paraphernalia used to administer marijuana, to mitigate the
5 symptoms or effects of a debilitating medical condition.

6 “(18) ‘Person designated to produce marijuana by a registry identification cardholder’ means a
7 person designated to produce marijuana by a registry identification cardholder under ORS 475B.810
8 who produces marijuana for a registry identification cardholder at an address other than the address
9 where the registry identification cardholder resides or at an address where more than 12 mature
10 marijuana plants are produced.

11 “(19) ‘Process’ means the compounding or conversion of marijuana into medical cannabinoid
12 products, cannabinoid concentrates or cannabinoid extracts.

13 “(20) ‘Production’ means:

14 “(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

15 “(b) Drying marijuana leaves or flowers.

16 “(21) ‘Registry identification card’ means a document issued by the Oregon Health Authority
17 under ORS 475B.797 that identifies a person authorized to engage in the medical use of marijuana
18 and, if the person has a designated primary caregiver under ORS 475B.804, the person’s designated
19 primary caregiver.

20 “(22) ‘Registry identification cardholder’ means a person to whom a registry identification card
21 has been issued under ORS 475B.797.

22 “(23)(a) ‘Usable marijuana’ means the dried leaves and flowers of marijuana.

23 “(b) ‘Usable marijuana’ does not include:

24 “(A) The seeds, stalks and roots of marijuana; or

25 “(B) Waste material that is a by-product of producing marijuana.

26 “(24) ‘Written documentation’ means a statement signed by the attending physician of a person
27 diagnosed with a debilitating medical condition or copies of the person’s relevant medical records.

28 “**SECTION 22. The amendments to ORS 475B.074 by section 7 of this 2019 Act apply to**
29 **applications for licenses under ORS 475B.070 submitted before, on or after the effective date**
30 **of this 2019 Act.**

31 “**SECTION 23. The amendments to ORS 475B.256 by section 14 of this 2019 Act apply to**
32 **tax years beginning on or after January 1, 2020.**

33 “**SECTION 24. The amendments to ORS 475B.705 by section 19 of this 2019 Act apply to**
34 **the retail sale of marijuana items occurring on or after January 1, 2020.**

35 “**SECTION 25. (1) Sections 1 and 3 of this 2019 Act and the amendments to ORS 475B.015,**
36 **475B.025, 475B.045, 475B.096, 475B.186, 475B.199, 475B.206, 475B.211, 475B.216, 475B.256,**
37 **475B.416, 475B.550, 475B.577, 475B.600, 475B.705, 475B.710 and 475B.791 by sections 4 to 6 and**
38 **8 to 21 of this 2019 Act become operative on January 1, 2020.**

39 “**(2) The Department of Revenue and the Oregon Liquor Control Commission may take**
40 **any action before the operative date specified in subsection (1) of this section that is neces-**
41 **sary to enable the department and the commission to exercise, on and after the operative**
42 **date specified in subsection (1) of this section, all of the duties, functions and powers con-**
43 **ferred on the department and the commission by sections 1 and 3 of this 2019 Act and the**
44 **amendments to ORS 475B.015, 475B.025, 475B.045, 475B.096, 475B.186, 475B.199, 475B.206,**
45 **475B.211, 475B.216, 475B.256, 475B.416, 475B.550, 475B.577, 475B.600, 475B.705, 475B.710 and**

1 475B.791 by sections 4 to 6 and 8 to 21 of this 2019 Act.

2 “SECTION 26. This 2019 Act being necessary for the immediate preservation of the public
3 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
4 on its passage.”

5
