

# House Bill 2797

Sponsored by Representative BARKER, Senator JOHNSON

## 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**.

Requires sentence of 58 to 130 months' imprisonment if person convicted of unlawful delivery or manufacture of controlled substance that results in death of another person from use of controlled substance. Punishes by maximum of 20 years' imprisonment, \$375,000 fine, or both.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to homicide resulting from controlled substance offense; amending ORS 475.925 and 475.930;  
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 475.925 is amended to read:

6 475.925. (1) When a person is convicted of the unlawful delivery or manufacture of a controlled  
7 substance, the court shall sentence the person to a term of incarceration ranging from:

8 [(1)] (a) 58 months to 130 months, depending on the person's criminal history, if the delivery or  
9 manufacture involves:

10 [(a)] (A) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;

11 [(b)] (B) 500 grams or more of a mixture or substance containing a detectable amount of meth-  
12 amphetamine, its salts, isomers or salts of its isomers;

13 [(c)] (C) 100 grams or more of a mixture or substance containing a detectable amount of heroin;  
14 or

15 [(d)] (D) 100 grams or more or 500 or more pills, tablets or capsules of a mixture or substance  
16 containing a detectable amount of ecstasy.

17 [(2)] (b) 34 months to 72 months, depending on the person's criminal history, if the delivery or  
18 manufacture involves:

19 [(a)] (A) 100 grams or more of a mixture or substance containing a detectable amount of cocaine;

20 [(b)] (B) 100 grams or more of a mixture or substance containing a detectable amount of meth-  
21 amphetamine, its salts, isomers or salts of its isomers;

22 [(c)] (C) 50 grams or more of a mixture or substance containing a detectable amount of heroin;  
23 or

24 [(d)] (D) 50 grams or more or 250 or more pills, tablets or capsules of a mixture or substance  
25 containing a detectable amount of ecstasy.

26 (c) **58 months to 130 months, depending on the person's criminal history, if the delivery**  
27 **or manufacture results in the death of another person from the use of the controlled sub-**  
28 **stance.**

29 (2)(a) **Notwithstanding ORS 475.752 to 475.980, unlawful delivery or manufacture of a**  
30 **controlled substance that results in the death of another person from the use of the con-**

**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 **trolled substance as described in subsection (1)(c) of this section is a Class A felony.**

2 **(b) An unlawful delivery or manufacture of a controlled substance results in the death**  
3 **of another person from the use of the controlled substance if the use of the controlled sub-**  
4 **stance was a factor in causing the death of the other person.**

5 **(c) Each person who unlawfully delivers or manufactures a controlled substance that**  
6 **results in the death of another person from the use of the controlled substance is criminally**  
7 **liable under this subsection, even if the deceased person did not receive the controlled sub-**  
8 **stance directly from the person.**

9 **SECTION 2.** ORS 475.930 is amended to read:

10 475.930. (1) When a court sentences a person under ORS 164.061, 475.907, 475.924 and 475.925:

11 (a) The court shall use the criminal history scale of the sentencing guidelines grid of the Oregon  
12 Criminal Justice Commission to determine the sentence to impose. The sentence described in:

13 (A) ORS 475.925 (1)(a) **and (c)** shall be determined utilizing crime category 10 of the sentencing  
14 guidelines grid.

15 (B) ORS 475.907 (1) and 475.925 [(2)] **(1)(b)** shall be determined utilizing crime category 9 of the  
16 sentencing guidelines grid.

17 (C) ORS 164.061 shall be determined utilizing crime category 8 of the sentencing guidelines grid.

18 (b)(A) Notwithstanding ORS 161.605, the court shall impose the sentence described in ORS  
19 164.061, 475.907, 475.924 and 475.925 and may not impose a sentence of optional probation or grant  
20 a downward dispositional departure or a downward durational departure under the rules of the  
21 commission.

22 (B) The court may impose a sentence other than the sentence described in ORS 164.061, 475.907,  
23 475.924 and 475.925 if the court imposes a longer term of incarceration that is otherwise required  
24 or authorized by law.

25 (2) A person sentenced under ORS 164.061, 475.907, 475.924 and 475.925 may not receive a re-  
26 duction in the term of incarceration for appropriate institutional behavior that exceeds 20 percent  
27 of the sentence imposed.

28 **(3) In determining criminal history for a person sentenced under ORS 475.925 (1)(c), the**  
29 **commission shall consider any prior conviction for unlawful delivery of a controlled sub-**  
30 **stance to be a person felony.**

31 **SECTION 3. This 2019 Act being necessary for the immediate preservation of the public**  
32 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
33 **on its passage.**

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