

HB 2098-1
(LC 558)
3/1/19 (SCT/ps)

Requested by HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT (at the request of Tom Burns)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2098**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and insert “475B.045 and 475B.710;”.

3 In line 3, delete “475B.105;”.

4 Delete lines 5 through 30 and delete pages 2 through 5 and insert:

5 **“SECTION 1.** ORS 475B.045 is amended to read:

6 “475B.045. (1) The Oregon Liquor Control Commission may not license an
7 applicant under the provisions of ORS 475B.010 to 475B.545 if the applicant
8 is under 21 years of age.

9 “(2) The commission may refuse to issue a license or may issue a re-
10 stricted license to an applicant under the provisions of ORS 475B.010 to
11 475B.545 if the commission makes a finding that the applicant:

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

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

15 “(c) Is incompetent or physically unable to carry on the management of
16 the establishment proposed to be licensed.

17 “(d) Has been convicted of violating a federal law, state law or local or-
18 dinance if the conviction is substantially related to the fitness and ability
19 of the applicant to lawfully carry out activities under the license.

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

21 “(f) Does not have a good record of compliance with ORS 475B.010 to

1 475B.545 or any rule adopted under ORS 475B.010 to 475B.545.

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

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

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

9 “(3) Notwithstanding subsection (2)(d) of this section, in determining
10 whether to issue a license or a restricted license to an applicant, the com-
11 mission may not consider the prior conviction of the applicant or any owner,
12 director, officer, manager, employee, agent or other representative of the
13 applicant for:

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

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

17 “(B) The person has not been convicted more than once for the manufac-
18 ture or delivery of marijuana;

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

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

22 “(B) The person has not been convicted more than once for the manufac-
23 ture or delivery of marijuana; or

24 “(c) The possession of marijuana.

25 “(4)(a) **The commission may not issue a license to or renew the li-**
26 **cence of a marijuana producer under ORS 475B.070 unless the**
27 **marijuana producer provides proof to the commission that the**
28 **marijuana producer has contracted with a marijuana processor that**
29 **holds a license issued under ORS 475B.090 or a marijuana retailer that**
30 **holds a license issued under ORS 475B.105 to transfer to the marijuana**

1 processor or marijuana retailer at least 90 percent of the marijuana
2 that the marijuana producer will produce during the licensure period.

3 “(b) Paragraph (a) of this subsection does not apply to a marijuana
4 producer that owns or is owned by a marijuana processor that holds
5 a license issued under ORS 475B.090 or a marijuana retailer that holds
6 a license issued under ORS 475B.105.

7 “(5) The commission shall suspend for not less than 30 days a
8 marijuana retailer that holds a license issued under ORS 475B.105 if
9 the marijuana retailer has not paid the tax imposed under ORS
10 475B.705 or filed a return pursuant to ORS 475B.710 twice in any four
11 consecutive quarters. If at the conclusion of the suspension period the
12 marijuana retailer has not paid the tax or filed the returns, the com-
13 mission shall revoke the license.

14 “**SECTION 2.** ORS 475B.710 is amended to read:

15 “475B.710. (1) Except as otherwise provided in ORS 475B.700 to 475B.760,
16 the tax imposed upon the consumer under ORS 475B.705 shall be collected
17 at the point of sale and remitted by each marijuana retailer that engages in
18 the retail sale of marijuana items. The tax is considered a tax upon the
19 marijuana retailer that is required to collect the tax, and the marijuana
20 retailer is considered a taxpayer.

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

24 “(3) The marijuana retailer shall pay the tax to the department in the
25 form and manner prescribed by the department, but not later than with each
26 quarterly return, without regard to an extension granted under subsection
27 (5) of this section.

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

30 “(5) For good cause, the department may extend the time for filing a re-

1 turn under this section. The extension may be granted at any time if a
2 written request is filed with the department during or prior to the period for
3 which the extension may be granted. The department may not grant an ex-
4 tension of more than 30 days.

5 “(6) Interest shall be added at the rate established under ORS 305.220 from
6 the time the return was originally required to be filed to the time of pay-
7 ment.

8 “(7) If a marijuana retailer fails to file a return or pay the tax as required
9 by this section, the department shall impose a penalty in the manner pro-
10 vided in ORS 314.400 **and notify the Oregon Liquor Control**
11 **Commission.**

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

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

19 “(b) If after any offset against any delinquent amount the overpayment
20 of tax remains greater than \$1,000, the remaining refund shall be applied as
21 a credit against the next subsequent calendar quarter as an estimated pay-
22 ment.

23 “(10) The department may not make a refund of, or credit, any overpay-
24 ment of tax under ORS 475B.700 to 475B.760 that was credited to the account
25 of a marijuana retailer under subsection (9)(b) of this section if the return
26 for that tax period is not filed within three years after the due date of that
27 return.

28 **“SECTION 3. The amendments to ORS 475B.045 by section 1 of this**
29 **2019 Act apply to tax years beginning on or after January 1, 2020.**

30 **“SECTION 4. (1) The amendments to ORS 475B.045 and 475B.710 by**

1 sections 1 and 2 of this 2019 Act become operative on January 1, 2020.

2 “(2) The Oregon Liquor Control Commission and the Department
3 of Revenue may take any action before the operative date specified in
4 subsection (1) of this section that is necessary to enable the commis-
5 sion and the department to exercise, on and after the operative date
6 specified in subsection (1) of this section, all of the duties, functions
7 and powers conferred on the commission and the department by the
8 amendments to ORS 475B.045 and 475B.710 by sections 1 and 2 of this
9 2019 Act.

10 “SECTION 5. This 2019 Act being necessary for the immediate
11 preservation of the public peace, health and safety, an emergency is
12 declared to exist, and this 2019 Act takes effect on its passage.”.

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