

HB 2098-3
(LC 558)
3/27/19 (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.256 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.256 is amended to read:

6 “475B.256. (1) The Oregon Liquor Control Commission may revoke, sus-
7 pend or restrict a license issued under ORS 475B.010 to 475B.545 or require
8 a licensee or licensee representative to undergo training if the commission
9 finds or has reasonable ground to believe any of the following to be true:

10 “[*1*] (a) That the licensee or licensee representative:

11 “[*a*] (A) Has violated a provision of ORS 475B.010 to 475B.545 or a rule
12 adopted under ORS 475B.010 to 475B.545.

13 “[*b*] (B) Has made any false representation or statement to the com-
14 mission in order to induce or prevent action by the commission.

15 “[*c*] (C) Is insolvent or incompetent or physically unable to carry on the
16 management of the establishment of the licensee.

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

19 “[*e*] (E) Has misrepresented to a customer or the public any marijuana
20 items sold by the licensee or licensee representative.

21 “[*f*] (F) Since the issuance of the license, has been convicted of a felony,

1 of violating any of the marijuana laws of this state, general or local, or of
2 any misdemeanor or violation of any municipal ordinance committed on the
3 premises for which the license has been issued.

4 “[2)] (b) That there is any other reason that, in the opinion of the com-
5 mission, based on public convenience or necessity, warrants revoking, sus-
6 pending or restricting the license.

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

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

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

17 **“(b) The department’s written notice to the commission that a**
18 **licensee described under this subsection has failed to pay a tax or file**
19 **a return twice in any four consecutive quarters, and that the depart-**
20 **ment has issued a distraint warrant or notice of determination and**
21 **assessment, shall constitute prima facie evidence of the licensee’s**
22 **failure to pay the tax or file a return.**

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

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

30 **“(2) The marijuana retailer shall file a return to the Department of Rev-**

1 enue on or before the last day of January, April, July and October of each
2 year for the previous calendar quarter.

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

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

9 “(5) For good cause, the department may extend the time for filing a re-
10 turn under this section. The extension may be granted at any time if a
11 written request is filed with the department during or prior to the period for
12 which the extension may be granted. The department may not grant an ex-
13 tension of more than 30 days.

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

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

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

20 “(b) **If the department has issued to the marijuana retailer a**
21 **distrain warrant or notice of determination and assessment under**
22 **ORS 475B.715, provide written notification to the Oregon Liquor Con-**
23 **trol Commission of the issuance of the distrain warrant or notice of**
24 **determination and assessment.**

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

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

1 retailer.

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

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

11 **“SECTION 3. The amendments to ORS 475B.256 by section 1 of this**
12 **2019 Act apply to tax years beginning on or after January 1, 2020.**

13 **“SECTION 4. (1) The amendments to ORS 475B.256 and 475B.710 by**
14 **sections 1 and 2 of this 2019 Act become operative on January 1, 2020.**

15 **“(2) The Oregon Liquor Control Commission and the Department**
16 **of Revenue may take any action before the operative date specified in**
17 **subsection (1) of this section that is necessary to enable the commis-**
18 **sion and the department to exercise, on and after the operative date**
19 **specified in subsection (1) of this section, all of the duties, functions**
20 **and powers conferred on the commission and the department by the**
21 **amendments to ORS 475B.256 and 475B.710 by sections 1 and 2 of this**
22 **2019 Act.**

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

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