

HB 2098-7
(LC 558)
4/9/19 (SCT/cpa/ps)

Requested by HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT (at the request of the Oregon Industry Progress Association and the Oregon Liquor Control Commission)

**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.015, 475B.025, 475B.045, 475B.074, 475B.096, 475B.186,
3 475B.199, 475B.206, 475B.211, 475B.216, 475B.256, 475B.416, 475B.577, 475B.705
4 and 475B.710;”.

5 In line 3, delete “475B.105;”.

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

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

13 **“(a) Representatives of the commission, the authority and the de-**
14 **partment;**

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

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

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

19 **“SECTION 2. 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**

1 active constituents [of] **derived from** marijuana.

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

4 “(a) A mechanical extraction process;

5 “(b) A chemical extraction process using a nonhydrocarbon-based solvent,
6 such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl al-
7 cohol or ethanol;

8 “(c) A chemical extraction process using carbon dioxide, provided that the
9 process does not involve the use of high heat or pressure; or

10 “(d) Any other process identified by the Oregon Liquor Control Commis-
11 sion, in consultation with the Oregon Health Authority, by rule.

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

15 “(4) ‘Cannabinoid extract’ means a substance obtained by separating
16 cannabinoids from marijuana by:

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

19 “(b) A chemical extraction process using carbon dioxide, if the process
20 uses high heat or pressure; or

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

23 “(5)(a) ‘Cannabinoid product’ means a cannabinoid edible and any other
24 product intended for human consumption or use, including a product in-
25 tended to be applied to the skin or hair, that contains cannabinoids or dried
26 marijuana leaves or flowers.

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

28 “(A) Usable marijuana by itself;

29 “(B) A cannabinoid concentrate by itself;

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

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

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

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

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

9 “(9)(a) ‘Financial consideration’ means value that is given or received ei-
10 ther directly or indirectly through sales, barter, trade, fees, charges, dues,
11 contributions or donations.

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

15 “(10) ‘Homegrown’ means grown by a person 21 years of age or older for
16 noncommercial purposes.

17 “(11) ‘Household’ means a housing unit and any place in or around a
18 housing unit at which the occupants of the housing unit are producing,
19 processing, possessing or storing homegrown marijuana, cannabinoid pro-
20 ducts, cannabinoid concentrates or cannabinoid extracts.

21 “(12) ‘Housing unit’ means a house, an apartment or a mobile home, or
22 a group of rooms or a single room that is occupied as separate living quar-
23 ters, in which the occupants live and eat separately from any other persons
24 in the building and that has direct access from the outside of the building
25 or through a common hall.

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

28 “(14) ‘Licensee’ means a person that holds a license issued under ORS
29 475B.070, 475B.090, 475B.100 or 475B.105.

30 “(15) ‘Licensee representative’ means an owner, director, officer, manager,

1 employee, agent or other representative of a licensee, to the extent that the
2 person acts in a representative capacity.

3 “(16)(a) ‘Manufacture’ means producing, propagating, preparing, com-
4 pounding, converting or processing a marijuana item, either directly or in-
5 directly, by extracting from substances of natural origin.

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

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

11 “(b) ‘Marijuana’ does not include industrial hemp, as defined in ORS
12 571.300.

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

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

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

19 “(21) ‘Marijuana processor’ means a person that processes marijuana
20 items in this state.

21 “(22) ‘Marijuana producer’ means a person that produces marijuana in
22 this state.

23 “(23) ‘Marijuana retailer’ means a person that sells marijuana items to a
24 consumer in this state.

25 “(24)(a) ‘Marijuana seeds’ means the seeds of the plant Cannabis family
26 Cannabaceae.

27 “(b) ‘Marijuana seeds’ does not include the seeds of industrial hemp, as
28 defined in ORS 571.300.

29 “(25) ‘Marijuana wholesaler’ means a person that purchases marijuana
30 items in this state for resale to a person other than a consumer.

1 “(26) ‘Mature marijuana plant’ means a marijuana plant that is not an
2 immature marijuana plant.

3 “(27) ‘Medical grade cannabinoid product, cannabinoid concentrate or
4 cannabinoid extract’ means a cannabinoid product, cannabinoid concentrate
5 or cannabinoid extract that has a concentration of tetrahydrocannabinol that
6 is permitted under ORS 475B.625 in a single serving of the cannabinoid
7 product, cannabinoid concentrate or cannabinoid extract for consumers who
8 hold a valid registry identification card issued under ORS 475B.797.

9 “(28) ‘Medical purpose’ means a purpose related to using usable
10 marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid
11 extracts to mitigate the symptoms or effects of a debilitating medical condi-
12 tion, as defined in ORS 475B.791.

13 “(29) ‘Noncommercial’ means not dependent or conditioned upon the pro-
14 vision or receipt of financial consideration.

15 “(30)(a) ‘Premises’ includes the following areas of a location licensed un-
16 der ORS 475B.010 to 475B.545:

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

20 “(B) All areas outside a building that the commission has specifically li-
21 censed for the processing, wholesale sale or retail sale of marijuana items;
22 and

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

26 “(b) ‘Premises’ does not include a primary residence.

27 “(31)(a) ‘Processes’ means the processing, compounding or conversion of
28 marijuana into cannabinoid products, cannabinoid concentrates or
29 cannabinoid extracts.

30 “(b) ‘Processes’ does not include packaging or labeling.

1 “(32)(a) ‘Produces’ means the manufacture, planting, cultivation, growing
2 or harvesting of marijuana.

3 “(b) ‘Produces’ does not include:

4 “(A) The drying of marijuana by a marijuana processor, if the marijuana
5 processor is not otherwise producing marijuana; or

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

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

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

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

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

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

23 “(A) Marijuana seeds;

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

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

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

28 “475B.025. (1) The Oregon Liquor Control Commission has the duties,
29 functions and powers specified in ORS 475B.010 to 475B.545 and the powers
30 necessary or proper to enable the commission to carry out the commission’s

1 duties, functions and powers under ORS 475B.010 to 475B.545. The jurisdic-
2 tion, supervision, duties, functions and powers of the commission extend to
3 any person that produces, processes, transports, delivers, sells or purchases
4 a marijuana item in this state. The commission may sue and be sued.

5 “(2) The duties, functions and powers of the commission specified in ORS
6 475B.010 to 475B.545 include the following:

7 “(a) To regulate the production, processing, transportation, delivery, sale
8 and purchase of marijuana items in accordance with the provisions of ORS
9 475B.010 to 475B.545.

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

14 “(c) To adopt, amend or repeal rules as necessary to carry out the intent
15 and provisions of ORS 475B.010 to 475B.545, including rules that the com-
16 mission considers necessary to protect the public health and safety.

17 “(d) To exercise all powers incidental, convenient or necessary to enable
18 the commission to administer or carry out the provisions of ORS 475B.010
19 to 475B.545 or any other law of this state that charges the commission with
20 a duty, function or power related to marijuana. Powers described in this
21 paragraph include, but are not limited to:

22 “(A) Issuing subpoenas;

23 “(B) Compelling the attendance of witnesses;

24 “(C) Administering oaths;

25 “(D) Certifying official acts;

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

27 “(F) Compelling the production of books, payrolls, accounts, papers, re-
28 cords, documents and testimony; and

29 “(G) Establishing fees in addition to the application, licensing and re-
30 newal fees described in ORS 475B.070, 475B.090, 475B.100 and 475B.105, pro-

1 vided that any fee established by the commission is reasonably calculated
2 not to exceed the cost of the activity for which the fee is charged.

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

5 “(A) That is appealing to minors;

6 “(B) That promotes excessive use;

7 “(C) That promotes illegal activity; or

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

10 “(f) To regulate the use of marijuana items for other purposes as deemed
11 necessary or appropriate by the commission.

12 “(g) **To establish pilot programs, of not more than three years in**
13 **duration, to expand access to marijuana for medical use for registry**
14 **identification cardholders and designated primary caregivers, as de-**
15 **fin ed in ORS 475B.791.**

16 “(3) Fees collected pursuant to subsection (2)(d)(G) of this section shall
17 be deposited in the Marijuana Control and Regulation Fund established un-
18 der ORS 475B.296.

19 “**SECTION 4.** ORS 475B.045 is amended to read:

20 “475B.045. (1) The Oregon Liquor Control Commission may not license an
21 applicant under the provisions of ORS 475B.010 to 475B.545 **or 475B.560** if
22 the applicant is under 21 years of age.

23 “(2) The commission may refuse to issue a license or may issue a re-
24 stricted license to an applicant under the provisions of ORS 475B.010 to
25 475B.545 if the commission makes a finding that the applicant:

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

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

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

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

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

5 “(f) Does not have a good record of compliance with ORS 475B.010 to
6 475B.545 or any rule adopted under ORS 475B.010 to 475B.545.

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

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

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

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

19 “(a) The manufacture of marijuana, 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;

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

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

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

29 “(c) The possession of marijuana.

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

1 “475B.074. The requirement under ORS 475B.063 to obtain a land use
2 compatibility statement as a condition of receiving a license under ORS
3 475B.070 does not apply to an applicant if:

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

6 “(2) The address is outside of city limits;

7 “(3) At least one person responsible for a marijuana grow site located at
8 the address first registered with the Oregon Health Authority under ORS
9 475B.810 before, **and has been continuously registered since**, January 1,
10 2015;

11 “(4) Each person responsible for a marijuana grow site located at the
12 address first registered with the Oregon Health Authority under ORS
13 475B.810 before February 1, 2016; and

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

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

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

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

19 “475B.096. (1) Notwithstanding ORS 475B.090, a marijuana producer that
20 holds a license issued under ORS 475B.070 and has a mature marijuana plant
21 grow canopy described in subsection (2) of this section may process
22 marijuana into a cannabinoid concentrate if the process involves separating
23 cannabinoids from marijuana by:

24 “(a) A mechanical process; or

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

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

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

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

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

5 “(b) **For purposes of this subsection, ‘kief’ means the resinous**
6 **trichomes of marijuana that accumulate or fall off when marijuana**
7 **flower is sifted through a mesh screen or sieve.**

8 “[3] (4) The processing of marijuana under this section must comport
9 with any reasonable condition adopted under ORS 475B.486 that is imposed
10 on the manner in which a marijuana processor licensed under ORS 475B.090
11 may process marijuana.

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

13 “475B.186. (1) The Legislative Assembly finds and declares that the un-
14 regulated commerce of marijuana items constitutes a serious danger to public
15 health and safety.

16 “(2) In addition to any other disciplinary action available to the Oregon
17 Liquor Control Commission under ORS 475B.010 to 475B.545, the commission
18 may immediately restrict, suspend or refuse to renew a license issued under
19 ORS 475B.010 to 475B.545 **or 475B.560** if circumstances create probable cause
20 for the commission to conclude that a licensee has purchased or received a
21 marijuana item from an unlicensed source or that a licensee has sold, stored
22 or transferred a marijuana item in a manner that is not permitted by the
23 licensee’s license.

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

25 “475B.199. (1) Notwithstanding the lapse, suspension or revocation of a
26 permit issued under ORS 475B.266, the Oregon Liquor Control Commission
27 may:

28 “(a) Proceed with any investigation of, or any action or disciplinary pro-
29 ceeding against, the person who held the permit; or

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

1 “(2) In cases involving the proposed denial of a [*license issued under ORS*
2 *475B.010 to 475B.545, the applicant for licensure*] **permit issued under ORS**
3 **475B.266, the applicant for the permit** may not withdraw the applicant’s
4 application.

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

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

14 “(2) A licensee to which marijuana items may be delivered under sub-
15 section (1) of this section may receive marijuana items only from:

16 “(a) A marijuana producer that holds a license issued under ORS
17 475B.070, marijuana processor that holds a license issued under ORS
18 475B.090, marijuana wholesaler that holds a license issued under ORS
19 475B.100 [*or*], marijuana retailer that holds a license issued under ORS
20 475B.105 **or a laboratory licensed under ORS 475B.560;**

21 “(b) A researcher of cannabis that holds a certificate issued under ORS
22 475B.286 and that transfers limited amounts of marijuana, usable marijuana,
23 cannabinoid products, cannabinoid concentrates and cannabinoid extracts in
24 accordance with procedures adopted under ORS 475B.286 (3)(d) and (e); [*or*]

25 “(c) A marijuana grow site registered under ORS 475B.810, marijuana
26 processing site registered under ORS 475B.840, or a medical marijuana
27 dispensary registered under ORS 475B.858, acting in accordance with proce-
28 dures adopted by the Oregon Liquor Control Commission under ORS
29 475B.167[.]; **or**

30 **“(d) A marijuana grow site registered under ORS 475B.810, acting**

1 **in accordance with ORS 475B.825 and any procedures adopted by rule**
2 **by the commission.**

3 “(3) The sale of marijuana items by a marijuana retailer that holds a li-
4 cense issued under ORS 475B.105 must be restricted to the premises for
5 which the license has been issued, but deliveries may be made by a
6 marijuana retailer to consumers pursuant to a bona fide order received at
7 the premises prior to delivery.

8 “(4) The commission may by order waive the requirements of subsections
9 (1) and (2) of this section to ensure compliance with ORS 475B.010 to
10 475B.545 or a rule adopted under ORS 475B.010 to 475B.545. An order issued
11 under this subsection does not constitute a waiver of any other requirement
12 of ORS 475B.010 to 475B.545 or any other rule adopted under ORS 475B.010
13 to 475B.545.

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

15 **“475B.211. Except for a marijuana retailer registered under ORS**
16 **475B.146 to sell or deliver marijuana items to a registry identification**
17 **cardholder who is 18 years of age or older,** a licensee or licensee repre-
18 sentative may not sell or deliver a marijuana item to a person under 21 years
19 of age.

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

21 **“475B.216. (1) Subject to subsection (2) of this section, a licensee or**
22 **licensee representative, before selling or providing a marijuana item to an-**
23 **other person, must require the person to produce one of the following pieces**
24 **of identification:**

25 **“(a) The person’s passport, issued by the United States or a foreign**
26 **government.**

27 **“(b) The person’s driver license, issued by the State of Oregon or another**
28 **state of the United States.**

29 **“(c) An identification card issued under ORS 807.400.**

30 **“(d) A United States military identification card.**

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

2 “(f) Any other identification card issued by a state or territory of the
3 United States that bears a picture of the person, the name of the person, the
4 person’s date of birth and a physical description of the person.

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

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

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

12 “[1] (a) That the licensee or licensee representative:

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

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

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

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

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

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

27 “[2] (b) That there is any other reason that, in the opinion of the com-
28 mission, based on public convenience or necessity, warrants revoking, sus-
29 pending or restricting the license.

30 **“(2)(a) The commission shall revoke a marijuana retailer license**

1 issued under ORS 475B.105 if the licensee fails to:

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

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

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

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

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

25 “SECTION 14. ORS 475B.577 is amended to read:

26 “475B.577. (1) Notwithstanding the lapse, suspension or revocation of a
27 license issued under ORS 475B.560, the Oregon Liquor Control Commission
28 may:

29 “(a) Proceed with any investigation of, or any action or disciplinary pro-
30 ceeding against, the 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
3 [475B.010 to 475B.545] **475B.560**, the applicant for licensure may not with-
4 draw the applicant’s application.

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

6 “475B.705. (1) A tax is hereby imposed upon the retail sale of marijuana
7 items in this state. The tax imposed by this section is a direct tax on the
8 consumer, for which payment upon retail sale is required. The tax shall be
9 collected at the point of sale of a marijuana item by a marijuana retailer at
10 the time at which the retail sale occurs.

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

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

14 “[*b*] 17 percent of the retail sales price of *marijuana flowers*;

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

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

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

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

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

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

24 “(3) If the tax imposed under this section does not equal an amount cal-
25 culable to a whole cent, the tax shall be equal to the next higher whole cent.

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

30 “(5) A person may not knowingly sell, purchase, install, transfer or pos-

1 sess electronic devices or software programs for the purposes of:

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

3 “(b) Falsifying records of retail sales of marijuana items.

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

7 “(b) Paragraph (a) of this subsection does not affect any provision of ORS
8 475B.010 to 475B.545 or any rule adopted by the Oregon Liquor Control
9 Commission pursuant to ORS 475B.010 to 475B.545 that is related to the re-
10 tail sale of marijuana items.

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

12 “475B.710. (1) Except as otherwise provided in ORS 475B.700 to 475B.760,
13 the tax imposed upon the consumer under ORS 475B.705 shall be collected
14 at the point of sale and remitted by each marijuana retailer that engages in
15 the retail sale of marijuana items. The tax is considered a tax upon the
16 marijuana retailer that is required to collect the tax, and the marijuana
17 retailer is considered a taxpayer.

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

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

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

27 “(5) For good cause, the department may extend the time for filing a re-
28 turn under this section. The extension may be granted at any time if a
29 written request is filed with the department during or prior to the period for
30 which the extension may be granted. The department may not grant an ex-

1 tension of more than 30 days.

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

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

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

8 “(b) **If the department has issued to the marijuana retailer a**
9 **distrain warrant or notice of determination and assessment under**
10 **ORS 475B.715, provide written notification to the Oregon Liquor Con-**
11 **trol Commission of the issuance of the distrain warrant or notice of**
12 **determination and assessment.**

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

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

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

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

29 **“SECTION 17. The amendments to ORS 475B.074 by section 5 of this**
30 **2019 Act apply to applications for licenses under ORS 475B.070 submit-**

1 ted before, on or after January 1, 2020.

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

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

7 **“SECTION 20.** (1) Section 1 of this 2019 Act and the amendments to
8 ORS 475B.015, 475B.025, 475B.045, 475B.074, 475B.096, 475B.186, 475B.199,
9 475B.206, 475B.211, 475B.216, 475B.256, 475B.416, 475B.577, 475B.705 and
10 475B.710 by sections 2 to 16 of this 2019 Act become operative on Jan-
11 uary 1, 2020.

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

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

25
