

House Bill 4034

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Economic Development for Representative John Lively)

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**.

Directs Oregon Liquor Control Commission to establish by rule process to register medical marijuana grow sites. Defines "medical marijuana grow site." Allows medical marijuana grow sites to apply for registration not later than September 1, 2020. Establishes plant production limits for medical marijuana grow sites registered by commission.

Becomes operative June 1, 2020.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to medical marijuana grow sites; creating new provisions; amending ORS 475B.206,
3 475B.526 and 475B.831; and declaring an emergency.

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

5 **SECTION 1. Sections 2 to 6 of this 2020 Act are added to and made a part of ORS 475B.010**
6 **to 475B.545.**

7 **SECTION 2. As used in sections 3 to 6 of this 2020 Act, "medical marijuana grow site":**

8 (1) **Means a location at which marijuana is produced for use by registry identification**
9 **cardholders.**

10 (2) **Does not include a marijuana grow site registered under ORS 475B.810.**

11 **SECTION 3. (1) The Oregon Liquor Control Commission shall establish by rule a process**
12 **to register medical marijuana grow sites. To hold a registration under this section, an ap-**
13 **plicant shall:**

14 (a) **Apply for a registration in the manner prescribed by the commission by rule;**

15 (b) **Provide to the commission proof that the applicant is 21 years of age or older; and**

16 (c) **Meet any other requirements established by the commission by rule.**

17 (2) **A registration issued under this section is valid for one year and may be renewed**
18 **pursuant to rules adopted by the commission.**

19 (3)(a) **An applicant for registration under this section must be an individual.**

20 (b) **A registration issued under this section may not be transferred:**

21 (A) **From the individual to whom it is issued to another individual; or**

22 (B) **To any location other than the original location at which the applicant produces**
23 **marijuana.**

24 (4) **All seeds, immature marijuana plants, mature marijuana plants and usable marijuana**
25 **produced by the medical marijuana grow site are the property of the medical marijuana grow**
26 **site.**

27 (5) **A medical marijuana grow site may transfer:**

28 (a) **Subject to the limits established in ORS 475B.825, 475B.831 and 475B.834, the seeds,**

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 immature marijuana plants and usable marijuana associated with the production of
 2 marijuana to:

3 (A) A registry identification cardholder or designated primary caregiver;

4 (B) A medical marijuana dispensary, as defined in ORS 475B.791; or

5 (C) A marijuana processing site, as defined in ORS 475B.791; and

6 (b) Subject to the limits described in ORS 475B.825 that apply to a marijuana grow site
 7 as defined in ORS 475B.791, usable marijuana to a marijuana processor licensed under ORS
 8 475B.090 or a marijuana wholesaler licensed under ORS 475B.100.

9 (6)(a) The commission shall establish application, registration and renewal fees under this
 10 section.

11 (b) Fees adopted under this section may not exceed, together with other fees collected
 12 under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545.

13 (c) Moneys from fees collected under this section shall be deposited in the Marijuana
 14 Control and Regulation Fund established under ORS 475B.296.

15 (7)(a) The commission shall consult with the Oregon Health Authority in adopting rules
 16 under this section.

17 (b) The commission may adopt by reference rules adopted by the authority relating to
 18 the regulation of the production of marijuana under ORS 475B.785 to 475B.949.

19 (c) The commission may adopt other rules as necessary to carry out this section.

20 **SECTION 4.** (1) A medical marijuana grow site registered under section 3 of this 2020
 21 Act is subject to the following production limits:

22 (a) Except as provided in paragraph (c) of this subsection, if the medical marijuana grow
 23 site is located within city limits in an area zoned for residential use, no more than:

24 (A) 12 mature marijuana plants;

25 (B) 24 immature marijuana plants that are 24 inches or more in height; and

26 (C) The number established by the Oregon Liquor Control Commission by rule of imma-
 27 ture marijuana plants that are less than 24 inches in height.

28 (b) Except as provided in paragraph (c) of this subsection, if the medical marijuana grow
 29 site is located in an area other than an area described in paragraph (a) of this subsection,
 30 no more than:

31 (A) 48 mature marijuana plants;

32 (B) 96 immature marijuana plants that are 24 inches in height or more; and

33 (C) The number established by the commission by rule of immature marijuana plants
 34 that are less than 24 inches in height.

35 (c) If the medical marijuana grow site, on or before April 1, 2020, is in compliance with
 36 the production limits in ORS 475B.831 (3)(b) or (4)(b) in effect on January 1, 2015, was ap-
 37 proved by the Oregon Health Authority as a grandfathered grow site under rules adopted by
 38 the authority and:

39 (A) Is located within city limits in an area zoned for residential use, no more than:

40 (i) 24 mature marijuana plants;

41 (ii) 48 immature marijuana plants that are 24 inches or more in height; and

42 (iii) The number established by the commission by rule of immature marijuana plants
 43 that are less than 24 inches in height.

44 (B) Is located in an area other than an area described in subparagraph (A) of this para-
 45 graph, no more than:

- 1 (i) 96 mature marijuana plants;
- 2 (ii) 192 immature marijuana plants that are 24 inches or more in height; and
- 3 (iii) The number established by the commission by rule of immature marijuana plants
- 4 that are less than 24 inches in height.

5 (2) In adopting rules under this section, the commission shall consult with the authority
6 and may adopt by reference rules adopted by the authority relating to plant possession lim-
7 its.

8 **SECTION 5.** (1) The Oregon Liquor Control Commission shall:

9 (a) Ensure the system developed and maintained under ORS 475B.177 is capable of
10 tracking the transfer of marijuana items produced at a medical marijuana grow site regis-
11 tered under section 3 of this 2020 Act.

12 (b) Treat information related to medical marijuana grow sites registered under section
13 3 of this 2020 Act in the same manner as the information described in ORS 475B.541.

14 (2) The commission may:

15 (a) Suspend, revoke or refuse to issue a registration under section 3 of this 2020 Act.

16 (b) Adopt rules as necessary to carry out this section.

17 **SECTION 6.** (1) The Oregon Liquor Control Commission may impose, for each violation
18 of ORS 475B.010 to 475B.545 or of a rule adopted under ORS 475B.010 to 475B.545, by a medical
19 marijuana grow site a civil penalty that does not exceed \$500 for each day that the violation
20 occurs.

21 (2) The commission shall impose civil penalties under this section in the manner provided
22 in ORS 183.745.

23 (3) All moneys collected pursuant to this section shall be deposited in the Marijuana
24 Control and Regulation Fund established under ORS 475B.296.

25 **SECTION 7.** ORS 475B.831 is amended to read:

26 475B.831. (1)(a) A registry identification cardholder and the designated primary caregiver of the
27 registry identification cardholder may jointly possess:

28 (A) Six or fewer mature marijuana plants; and

29 (B) Twelve or fewer immature marijuana plants.

30 (b)(A) Unless an address is the marijuana grow site of a person designated to produce marijuana
31 by a registry identification cardholder, the address where a registry identification cardholder or the
32 primary caregiver of a registry identification cardholder produces marijuana may be used to produce
33 not more than:

34 (i) Six or fewer mature marijuana plants per registry identification cardholder, up to 12 mature
35 marijuana plants; and

36 (ii) Twelve or fewer immature marijuana plants per registry identification cardholder, up to 24
37 immature marijuana plants.

38 (B) Except as provided in subparagraph (C) of this paragraph, an address that is subject to this
39 paragraph may not be used to produce plants in the genus Cannabis within the plant family
40 Cannabaceae pursuant to ORS 475B.301.

41 (C) Subject to subparagraph (D) of this paragraph, an address that is subject to this paragraph
42 may be used to produce plants in the genus Cannabis within the plant family Cannabaceae pursuant
43 to ORS 475B.301 if a person other than a registry identification cardholder who is using the address
44 to produce marijuana plants pursuant to ORS 475B.785 to 475B.949 resides at the address.

45 (D) An address that is subject to this paragraph may not be used to produce more than 12 total

1 mature marijuana plants.

2 (2)(a) A person may be designated to produce marijuana under ORS 475B.810 by no more than
3 *[eight]* **two** registry identification cardholders.

4 (b) A person responsible for a marijuana grow site may produce for a registry identification
5 cardholder who designates the person to produce marijuana no more than:

6 (A) Six mature marijuana plants;

7 (B) 12 immature marijuana plants that are 24 inches or more in height; and

8 (C) The *[amount,]* **number** established by the Oregon Health Authority by rule*[,]* of immature
9 marijuana plants that are less than 24 inches in height.

10 (3) If the address of a person responsible for a marijuana grow site registered under ORS
11 475B.810 is located within city limits in an area zoned for residential use*[,]*

12 *[(a) Except as provided in paragraph (b) of this subsection,]* no more than the following amounts
13 of marijuana plants may be produced at the address:

14 *[(A)]* (a) 12 mature marijuana plants;

15 *[(B)]* (b) 24 immature marijuana plants that are 24 inches or more in height; and

16 *[(C)]* (c) The *[amount,]* **number** established by the authority by rule*[,]* of immature marijuana
17 plants that are less than 24 inches in height*[: or]*.

18 *[(b) Subject to subsection (5) of this section, if each person responsible for a marijuana grow site
19 located at the address first registered with the authority under ORS 475B.810 before January 1, 2015,
20 no more than the following amounts of marijuana plants may be produced at the address:]*

21 *[(A) The amount of mature marijuana plants located at that address on December 31, 2014, in ex-
22 cess of 12 mature marijuana plants, not to exceed 24 mature marijuana plants;]*

23 *[(B) 48 immature marijuana plants that are 24 inches or more in height; and]*

24 *[(C) The amount, established by the authority by rule, of immature marijuana plants that are less
25 than 24 inches in height.]*

26 (4) If the address of a person responsible for a marijuana grow site registered under ORS
27 475B.810 is located in an area other than an area described in subsection (3) of this section*[,]*

28 *[(a) Except as provided in paragraph (b) of this subsection,]* no more than the following amounts
29 of marijuana plants may be produced at the address:

30 *[(A)]* (a) ~~[48]~~ **12** mature marijuana plants;

31 *[(B)]* (b) ~~[96]~~ **24** immature marijuana plants that are 24 inches or more in height; and

32 *[(C)]* (c) The *[amount,]* **number** established by the authority by rule*[,]* of immature marijuana
33 plants that are less than 24 inches in height*[: or]*.

34 *[(b) Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana
35 grow site located at the address first registered with the authority under ORS 475B.810 before January
36 1, 2015, no more than the following amounts of marijuana plants may be produced at the address:]*

37 *[(A) The amount of mature marijuana plants located at that address on December 31, 2014, in ex-
38 cess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants;]*

39 *[(B) 192 immature marijuana plants that are 24 inches or more in height; and]*

40 *[(C) The amount, established by the authority by rule, of immature marijuana plants that are less
41 than 24 inches in height.]*

42 *[(5)(a) If the authority suspends or revokes the registration of a person responsible for a marijuana
43 grow site that is located at an address described in subsection (3)(b) of this section, no more than the
44 following amounts of marijuana plants may subsequently be produced at any address described in
45 subsection (3) of this section at which the person responsible for the marijuana grow site produces*

1 *marijuana:*

2 [(A) 12 mature marijuana plants;]

3 [(B) 24 immature marijuana plants that are 24 inches or more in height; and]

4 [(C) The amount, established by the authority by rule, of immature marijuana plants that are less
5 than 24 inches in height.]

6 [(b) If the authority suspends or revokes the registration of a person responsible for a marijuana
7 grow site that is located at an address described in subsection (4)(b) of this section, no more than the
8 following amounts of marijuana plants may subsequently be produced at any address described in
9 subsection (4) of this section at which the person responsible for the marijuana grow site produces
10 marijuana:]

11 [(A) 48 mature marijuana plants;]

12 [(B) 96 immature marijuana plants that are 24 inches or more in height; and]

13 [(C) The amount, established by the authority by rule, of immature marijuana plants that are less
14 than 24 inches in height.]

15 [(6)] (5) If a registry identification cardholder who designated a person to produce marijuana for
16 the registry identification cardholder pursuant to ORS 475B.810 terminates the designation, the
17 person responsible for the marijuana grow site whose designation has been terminated may not be
18 designated to produce marijuana by another registry identification cardholder, except that the per-
19 son may be designated by another registry identification cardholder if no more than [48] 12 mature
20 marijuana plants and no more than [96] 24 immature marijuana plants that are 24 or more inches
21 in height are produced at the address for the marijuana grow site at which the person produces
22 marijuana.

23 [(7)] (6) Subject to the limits described in subsections (2) to [(6)] (5) of this section, if multiple
24 persons responsible for a marijuana grow site under ORS 475B.810 are located at the same address,
25 the persons designated to produce marijuana by registry identification cardholders who are located
26 at that address may collectively produce marijuana plants for [any number of] **no more than four**
27 registry identification cardholders who designate the persons to produce marijuana.

28 [(8)] (7) If a law enforcement officer determines that there is a number of marijuana plants at
29 an address in excess of the quantities specified in this section, or that an address is being used to
30 produce a number of marijuana plants in excess of the quantities specified in subsection (1)(b) of this
31 section, the law enforcement officer may confiscate only the excess number of marijuana plants.

32 **SECTION 8.** ORS 475B.206 is amended to read:

33 475B.206. (1) Except as provided in ORS 475B.136 and 475B.873 **and section 3 of this 2020**
34 **Act**, a marijuana producer that holds a license issued under ORS 475B.070, marijuana processor that
35 holds a license issued under ORS 475B.090 [or], marijuana wholesaler that holds a license issued
36 under ORS 475B.100 **or medical marijuana grow site registered under section 3 of this 2020**
37 **Act** may deliver marijuana items only to or on a premises for which a license has been issued under
38 ORS 475B.070, 475B.090, 475B.100 or 475B.105, or to a registry identification cardholder or desig-
39 nated primary caregiver as allowed under ORS 475B.010 to 475B.545.

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

42 (a) A marijuana producer that holds a license issued under ORS 475B.070, marijuana processor
43 that holds a license issued under ORS 475B.090, marijuana wholesaler that holds a license issued
44 under ORS 475B.100, marijuana retailer that holds a license issued under ORS 475B.105 or a labo-
45 ratory licensed under ORS 475B.560;

1 (b) A researcher of cannabis that holds a certificate issued under ORS 475B.286 and that
 2 transfers limited amounts of marijuana, usable marijuana, cannabinoid products, cannabinoid con-
 3 centrates and cannabinoid extracts in accordance with procedures adopted under ORS 475B.286
 4 (3)(d) and (e);

5 (c) A marijuana grow site registered under ORS 475B.810, marijuana processing site registered
 6 under ORS 475B.840, or a medical marijuana dispensary registered under ORS 475B.858, acting in
 7 accordance with procedures adopted by the Oregon Liquor Control Commission under ORS 475B.167;
 8 [or]

9 (d) A marijuana grow site registered under ORS 475B.810, acting in accordance with ORS
 10 475B.825 and any procedures adopted by rule by the commission; or

11 **(e) A medical marijuana grow site registered under section 3 of this 2020 Act acting in**
 12 **accordance with section 3 of this 2020 Act and any procedures adopted by rule by the com-**
 13 **mission.**

14 (3) The sale of marijuana items by a marijuana retailer that holds a license issued under ORS
 15 475B.105 must be restricted to the premises for which the license has been issued, but deliveries
 16 may be made by a marijuana retailer to consumers pursuant to a bona fide order received at the
 17 premises prior to delivery.

18 (4) The commission may by order waive the requirements of subsections (1) and (2) of this sec-
 19 tion to ensure compliance with ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to
 20 475B.545. An order issued under this subsection does not constitute a waiver of any other require-
 21 ment of ORS 475B.010 to 475B.545 or any other rule adopted under ORS 475B.010 to 475B.545.

22 **SECTION 9.** ORS 475B.526 is amended to read:

23 475B.526. (1) Marijuana is:

24 (a) A crop for the purposes of “farm use” as defined in ORS 215.203;

25 (b) A crop for purposes of a “farm” and “farming practice,” both as defined in ORS 30.930;

26 (c) A product of farm use as described in ORS 308A.062; and

27 (d) The product of an agricultural activity for purposes of ORS 568.909.

28 (2) Notwithstanding ORS chapters 195, 196, 197, 215 and 227, the following are not permitted
 29 uses on land designated for exclusive farm use:

30 (a) A new dwelling used in conjunction with a marijuana crop;

31 (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with
 32 a marijuana crop; and

33 (c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in
 34 conjunction with a marijuana crop.

35 (3) A county may allow the production of marijuana as a farm use on land zoned for farm or
 36 forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones
 37 under this section and ORS 215.213, 215.283 and 475B.063.

38 (4) This section applies to:

39 (a) Marijuana producers that hold a license issued under ORS 475B.070;

40 (b) Persons registered under ORS 475B.810 and designated to produce marijuana by one or more
 41 persons who hold valid registry identification cards issued under ORS 475B.797; [and]

42 (c) For the purpose of producing marijuana or propagating immature marijuana plants, re-
 43 searchers of cannabis that hold a certificate issued under ORS 475B.286; and

44 **(d) Medical marijuana grow sites registered under section 3 of this 2020 Act.**

45 **SECTION 10. (1) Sections 2 to 6 of this 2020 Act and the amendments to ORS 475B.206,**

1 475B.526 and 475B.831 by sections 7 to 9 of this 2020 Act become operative on June 1, 2020.

2 (2) The Oregon Health Authority and the Oregon Liquor Control Commission may take
 3 any action before the operative date specified in subsection (1) of this section that is neces-
 4 sary to enable the authority or the commission to exercise, on or after the operative date
 5 specified in subsection (1) of this section, all of the duties, functions and powers conferred
 6 on the authority and the commission by sections 2 to 6 of this 2020 Act and the amendments
 7 to ORS 475B.206, 475B.526 and 475B.831 by sections 7 to 9 of this 2020 Act.

8 **SECTION 11.** (1) Until September 1, 2020, the Oregon Health Authority may renew a
 9 registration issued under ORS 475B.810 if the initial registration was issued before April 1,
 10 2020.

11 (2) On or after April 1, 2020, the authority may not:

12 (a) Register a marijuana grow site under ORS 475B.810 that produces marijuana for more
 13 than two registry identification cardholders, regardless of the number of persons designated
 14 to produce marijuana by registry identification cardholders at the marijuana grow site; or

15 (b) Collect fees for the issuance of initial registration of marijuana grow sites described
 16 in paragraph (a) of this subsection.

17 **SECTION 12.** (1) Not later than September 1, 2020, a medical marijuana grow site may
 18 apply to the Oregon Liquor Control Commission for registration under section 3 of this 2020
 19 Act if:

20 (a) The medical marijuana grow site is a marijuana grow site registered with the Oregon
 21 Health Authority under ORS 475B.810 on or before February 1, 2020;

22 (b) Before April 1, 2020, the medical marijuana grow site is designated to produce
 23 marijuana for three or more registry identification cardholders or is a marijuana grow site
 24 at which marijuana is produced by three or more persons designated to produce marijuana;
 25 and

26 (c) Before April 1, 2020, the medical marijuana grow site is subject to tracking under ORS
 27 475B.177.

28 (2)(a) Notwithstanding section 3 (4) of this 2020 Act, not later than November 1, 2020, a
 29 registry identification cardholder who designated a person to produce marijuana under ORS
 30 475B.810 may request that the person designated to produce marijuana transfer to the reg-
 31 istry identification cardholder all seeds, immature marijuana plants, mature marijuana
 32 plants and usable marijuana produced for the registry identification cardholder if the person
 33 designated to produce marijuana applies for a medical marijuana grow site registration under
 34 section 3 of this 2020 Act.

35 (b) A person to whom a request described in paragraph (a) of this subsection is made
 36 shall transfer the requested objects to the registry identification cardholder as soon as pos-
 37 sible after the request is made.

38 (3) The registration under ORS 475B.810 of a marijuana grow site at which marijuana is
 39 produced for three or more registry identification cardholders, or by three or more persons
 40 designated to produce marijuana for registry identification cardholders, and that does not
 41 apply for registration under section 3 of this 2020 Act by September 1, 2020, expires on Sep-
 42 tember 1, 2020. The expiration of a registration under this subsection may not be appealed.
 43 A marijuana grow site described in this subsection may not produce marijuana after Sep-
 44 tember 1, 2020.

45 **SECTION 13.** This 2020 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**
2 **on its passage.**

3
