

DRAFT

SUMMARY

Requires annual adjustment for inflation of amount to be retained, for distribution to cities, counties and other entities from Oregon Marijuana Account, prior to transfer of remainder of account balance to Drug Treatment and Recovery Services Fund.

Applies to distributions from Oregon Marijuana Account beginning in 2023.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to distribution of marijuana tax revenues; creating new provisions;
3 amending ORS 475C.726; and prescribing an effective date.

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

5 **SECTION 1.** ORS 475C.726 is amended to read:

6 475C.726. (1) **As used in this section, “U.S. City Average Consumer**
7 **Price Index” means the U.S. City Average Consumer Price Index for**
8 **All Urban Consumers (All Items) as published by the Bureau of Labor**
9 **Statistics of the United States Department of Labor.**

10 (2) There is established the Oregon Marijuana Account, separate and
11 distinct from the General Fund.

12 [(2)] The account consists of moneys transferred to the account under
13 ORS 475C.734.

14 (3)(a) The Department of Revenue shall certify quarterly the amount of
15 moneys available in the Oregon Marijuana Account.

16 (b)(A) Before making other transfers of moneys required by this section,
17 the department shall transfer quarterly to the Drug Treatment and Recovery
18 Services Fund all moneys in the Oregon Marijuana Account in excess of

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 \$11,250,000.

2 **(B) The department shall annually adjust the limitation in subpar-**
3 **agraph (A) of this paragraph. The department shall multiply \$11,250,000**
4 **by the percentage, if any, by which the monthly averaged U.S. City**
5 **Average Consumer Price Index for the 12 consecutive months ending**
6 **August 31 of the prior calendar year exceeds the monthly index for the**
7 **fourth quarter of the calendar year 2020, and shall add that product**
8 **to \$11,250,000. Any increase in the limitation shall apply beginning with**
9 **transfers made in July of each year, based upon receipts in the second**
10 **calendar quarter of each year.**

11 (c) Subject to subsection (4) of this section, and after making the transfer
12 of moneys required by paragraph (b) of this subsection, the department shall
13 transfer quarterly 20 percent of the moneys in the Oregon Marijuana Ac-
14 count as follows:

15 (A) Ten percent of the moneys in the account must be transferred to the
16 cities of this state in the following shares:

17 (i) Seventy-five percent of the 10 percent must be transferred in shares
18 that reflect the population of each city of this state that is not exempt from
19 this paragraph pursuant to subsection (4)(a) of this section compared to the
20 population of all cities of this state that are not exempt from this paragraph
21 pursuant to subsection (4)(a) of this section, as determined by Portland State
22 University under ORS 190.510 to 190.610, on the date immediately preceding
23 the date of the transfer; and

24 (ii) Twenty-five percent of the 10 percent must be transferred in shares
25 that reflect the number of licenses held pursuant to ORS 475C.065, 475C.085,
26 475C.093 and 475C.097 on the last business day of the calendar quarter pre-
27 ceding the date of the transfer for premises located in each city compared
28 to the number of licenses held pursuant to ORS 475C.065, 475C.085, 475C.093
29 and 475C.097 on the last business day of that calendar quarter for all prem-
30 ises in this state located in cities; and

31 (B) Ten percent of the moneys in the account must be transferred to

1 counties in the following shares:

2 (i) Fifty percent of the 10 percent must be transferred in shares that re-
3 flect the total commercially available area of all grow canopies associated
4 with marijuana producer licenses held pursuant to ORS 475C.065 on the last
5 business day of the calendar quarter preceding the date of the transfer for
6 all premises located in each county compared to the total commercially
7 available area of all grow canopies associated with marijuana producer li-
8 censes held pursuant to ORS 475C.065 on the last business day of that cal-
9 endar quarter for all premises located in this state; and

10 (ii) Fifty percent of the 10 percent must be transferred in shares that re-
11 flect the number of licenses held pursuant to ORS 475C.085, 475C.093 and
12 475C.097 on the last business day of the calendar quarter preceding the date
13 of the transfer for premises located in each county compared to the number
14 of licenses held pursuant to ORS 475C.085, 475C.093 and 475C.097 on the last
15 business day of that calendar quarter for all premises in this state.

16 (d) After making the transfer of moneys required by paragraph (b) of this
17 subsection, 80 percent of the remaining moneys in the Oregon Marijuana
18 Account must be used as follows:

19 (A) Forty percent of the moneys in the account must be used solely for
20 purposes for which moneys in the State School Fund established under ORS
21 327.008 may be used;

22 (B) Twenty percent of the moneys in the account must be used solely for
23 mental health treatment or for alcohol and drug abuse prevention, early
24 intervention and treatment;

25 (C) Fifteen percent of the moneys in the account must be used solely for
26 purposes for which moneys in the State Police Account established under
27 ORS 181A.020 may be used; and

28 (D) Five percent of the moneys in the account must be used solely for
29 purposes related to alcohol and drug abuse prevention, early intervention
30 and treatment services.

31 (4)(a) A city that has an ordinance prohibiting the establishment of a

1 premises for which issuance of a license under ORS 475C.065, 475C.085,
2 475C.093 or 475C.097 is required is not eligible to receive transfers of moneys
3 under subsection (3)(c)(A) of this section.

4 (b) A county that has an ordinance prohibiting the establishment of a
5 premises for which issuance of a license under ORS 475C.065 is required is
6 not eligible to receive transfers of moneys under subsection (3)(c)(B)(i) of this
7 section.

8 (c) A county that has an ordinance prohibiting the establishment of a
9 premises for which issuance of a license under ORS 475C.085, 475C.093 or
10 475C.097 is required is not eligible to receive transfers of moneys under
11 subsection (3)(c)(B)(ii) of this section.

12 (d)(A) Paragraphs (b) and (c) of this subsection do not apply to a county
13 ordinance adopted on or after January 1, 2018, that prohibits the establish-
14 ment of a premises for which a license under ORS 475C.065, 475C.085,
15 475C.093 or 475C.097 is required but allows in the unincorporated area of the
16 county the continued operation of an existing premises for which a license
17 under ORS 475C.065, 475C.085, 475C.093 or 475C.097 is required.

18 (B) A county that adopts an ordinance described in subparagraph (A) of
19 this paragraph shall certify the adoption of the ordinance under subsection
20 (6) of this section.

21 (5)(a) A city or county that is ineligible under subsection (4) of this sec-
22 tion to receive a transfer of moneys from the Oregon Marijuana Account
23 during a given quarter but has received a transfer of moneys for that quarter
24 shall return the amount transferred to the Department of Revenue, with in-
25 terest as described under paragraph (f) of this subsection. An ineligible city
26 or county may voluntarily transfer the moneys to the Department of Revenue
27 immediately upon receipt of the ineligible transfer.

28 (b) If the Director of the Oregon Department of Administrative Services
29 determines that a city or county received a transfer of moneys under sub-
30 section (3)(c) of this section but was ineligible to receive that transfer under
31 subsection (4) of this section, the director shall provide notice to the ineli-

1 gible city or county and order the city or county to return the amount re-
2 ceived to the Department of Revenue, with interest as described under
3 paragraph (f) of this subsection. A city or county may appeal the order
4 within 30 days of the date of the order under the procedures for a contested
5 case under ORS chapter 183.

6 (c) As soon as the order under paragraph (b) of this subsection becomes
7 final, the director shall notify the Department of Revenue and the ineligible
8 city or county. Upon notification, the Department of Revenue immediately
9 shall proceed to collect the amount stated in the notice.

10 (d) The Department of Revenue shall have the benefit of all laws of the
11 state pertaining to the collection of income and excise taxes and may proceed
12 to collect the amounts described in the notice under paragraph (c) of this
13 subsection. An assessment of tax is not necessary and the collection de-
14 scribed in this subsection is not precluded by any statute of limitations.

15 (e) If a city or county is subject to an order to return moneys from an
16 ineligible transfer, the city or county shall be denied any further relief in
17 connection with the ineligible transfer on or after the date that the order
18 becomes final.

19 (f) Interest under this section shall accrue at the rate established in ORS
20 305.220 beginning on the date the ineligible transfer was made.

21 (g) Both the moneys and the interest collected from or returned by an
22 ineligible city or county shall be redistributed to the cities or counties that
23 were eligible to receive a transfer under subsection (3)(c) of this section on
24 the date the ineligible transfer was made.

25 (6)(a) Not later than July 1 of each year, each city and county in this
26 state shall certify with the Oregon Department of Administrative Services
27 whether the city or county has an ordinance prohibiting the establishment
28 of a premises for which issuance of a license under ORS 475C.065, 475C.085,
29 475C.093 or 475C.097 is required and whether the county has an ordinance
30 described in subsection (4)(d) of this section. The certification shall be made
31 concurrently with the certifications under ORS 221.770, in a form and man-

1 ner prescribed by the Oregon Department of Administrative Services.

2 (b) If a city fails to comply with this subsection, the city is not eligible
3 to receive transfers of moneys under subsection (3)(c)(A) of this section. If
4 a county fails to comply with this subsection, the county is not eligible to
5 receive transfers of moneys under subsection (3)(c)(B) of this section.

6 (c) A city or county that repeals an ordinance as provided in ORS
7 475C.457 shall file an updated certification with the Oregon Department of
8 Administrative Services in a form and manner prescribed by the department,
9 noting the effective date of the change. A city or county that repeals an or-
10 dinance as provided in ORS 475C.457 is eligible to receive quarterly transfers
11 of moneys under this section for quarters where the repeal is effective for
12 the entire quarter and the updated certification was filed at least 30 days
13 before the date of transfer.

14 **SECTION 2. The amendments to ORS 475C.726 by section 1 of this**
15 **2022 Act apply to distributions from the Oregon Marijuana Account**
16 **beginning in 2023.**

17 **SECTION 3. This 2022 Act takes effect on the 91st day after the date**
18 **on which the 2022 regular session of the Eighty-first Legislative As-**
19 **sembly adjourns sine die.**

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