

House Bill 3369

Sponsored by Representative NOSSE

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**.

Requires transfer of moneys from Oregon Marijuana Account to Oregon Health Authority for purposes of administering Oregon Medical Marijuana Program. Specifies licensed health care providers who may recommend medical use of marijuana to registry identification cardholder. Removes requirement that registry identification cardholder or person responsible for marijuana grow site who does not own premises at which marijuana is produced obtain consent from property owner to produce marijuana at premises. Limits marijuana grow site registration card fee to \$50. Exempts from tracking requirements marijuana produced at address used to produce marijuana for four or fewer registry identification cardholders.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to marijuana; creating new provisions; amending ORS 475B.759, 475B.791, 475B.797,
3 475B.810, 475B.816, 475B.895, 475B.913, 475B.916 and 475B.952; and prescribing an effective date.

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

5 **SECTION 1.** ORS 475B.759, as amended by section 10, chapter 2, Oregon Laws 2021 (Ballot
6 Measure 110 (2020)), is amended to read:

7 475B.759. (1) There is established the Oregon Marijuana Account, separate and distinct from the
8 General Fund.

9 (2) The account shall consist of moneys transferred to the account under ORS 475B.760.

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

12 (b) Subject to subsection (4) of this section, and after making the transfer of moneys required
13 by subsection (7) of this section, the department shall transfer quarterly 20 percent of the moneys
14 in the Oregon Marijuana Account as follows:

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

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

22 (ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number
23 of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day
24 of the calendar quarter preceding the date of the transfer for premises located in each city compared
25 to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the
26 last business day of that calendar quarter for all premises in this state located in cities; and

27 (B) Ten percent of the moneys in the account must be transferred to counties in the following

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 shares:

2 (i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commer-
 3 cially available area of all grow canopies associated with marijuana producer licenses held pursuant
 4 to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer
 5 for all premises located in each county compared to the total commercially available area of all
 6 grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the
 7 last business day of that calendar quarter for all premises located in this state; and

8 (ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of li-
 9 censes held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the cal-
 10 endar quarter preceding the date of the transfer for premises located in each county compared to
 11 the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business
 12 day of that calendar quarter for all premises in this state.

13 (c) After making the transfer of moneys required by subsection (7) of this section, eighty percent
 14 of the remaining moneys in the Oregon Marijuana Account must be used as follows:

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

17 (B) ~~Twenty~~ **Twelve** percent of the moneys in the account must be used solely for mental health
 18 treatment or for alcohol and drug abuse prevention, early intervention and treatment;

19 (C) Fifteen percent of the moneys in the account must be used solely for purposes for which
 20 moneys in the State Police Account established under ORS 181A.020 may be used; *[and]*

21 (D) Five percent of the moneys in the account must be used solely for purposes related to al-
 22 cohool and drug abuse prevention, early intervention and treatment services[.]; **and**

23 **(E) Eight percent of the moneys in the account must be transferred to the Oregon Health**
 24 **Authority and used solely for the purposes of administering ORS 475B.785 to 475B.949.**

25 (4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issu-
 26 ance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to
 27 receive transfers of moneys under subsection (3)(b)(A) of this section.

28 (b) A county that has an ordinance prohibiting the establishment of a premises for which issu-
 29 ance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under
 30 subsection (3)(b)(B)(i) of this section.

31 (c) A county that has an ordinance prohibiting the establishment of a premises for which issu-
 32 ance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive
 33 transfers of moneys under subsection (3)(b)(B)(ii) of this section.

34 (5)(a) A city or county that is ineligible under subsection (4) of this section to receive a transfer
 35 of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer
 36 of moneys for that quarter shall return the amount transferred to the Department of Revenue, with
 37 interest as described under paragraph (f) of this subsection. An ineligible city or county may vol-
 38 untarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligi-
 39 ble transfer.

40 (b) If the Director of the Oregon Department of Administrative Services determines that a city
 41 or county received a transfer of moneys under subsection (3)(b) of this section but was ineligible to
 42 receive that transfer under subsection (4) of this section, the director shall provide notice to the
 43 ineligible city or county and order the city or county to return the amount received to the Depart-
 44 ment of Revenue, with interest as described under paragraph (f) of this subsection. A city or county
 45 may appeal the order within 30 days of the date of the order under the procedures for a contested

1 case under ORS chapter 183.

2 (c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall
 3 notify the Department of Revenue and the ineligible city or county. Upon notification, the Depart-
 4 ment of Revenue immediately shall proceed to collect the amount stated in the notice.

5 (d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the
 6 collection of income and excise taxes and may proceed to collect the amounts described in the no-
 7 tice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection
 8 described in this subsection is not precluded by any statute of limitations.

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

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

14 (g) Both the moneys and the interest collected from or returned by an ineligible city or county
 15 shall be redistributed to the cities or counties that were eligible to receive a transfer under sub-
 16 section (3)(b) of this section on the date the ineligible transfer was made.

17 (6)(a) Not later than July 1 of each year, each city and county in this state shall certify with
 18 the Oregon Department of Administrative Services whether the city or county has an ordinance
 19 prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070,
 20 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the
 21 certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of
 22 Administrative Services.

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

26 (c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an updated
 27 certification with the Oregon Department of Administrative Services in a form and manner pre-
 28 scribed by the department, noting the effective date of the change. A city or county that repeals an
 29 ordinance as provided in ORS 475B.496 is eligible to receive quarterly transfers of moneys under
 30 this section for quarters where the repeal is effective for the entire quarter and the updated certi-
 31 fication was filed at least 30 days before the date of transfer.

32 (7) Before making the transfer of moneys required by subsection (3) of this section, the depart-
 33 ment shall transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in the
 34 Oregon Marijuana Account in excess of \$11,250,000.

35 **SECTION 2.** ORS 475B.791 is amended to read:

36 475B.791. As used in ORS 475B.785 to 475B.949:

37 [(1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary
 38 responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.]

39 [(2)] (1) "Cannabinoid" means any of the chemical compounds that are the active constituents
 40 of marijuana.

41 [(3)] (2) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from
 42 marijuana by:

43 (a) A mechanical extraction process;

44 (b) A chemical extraction process using a nonhydrocarbon-based solvent, such as vegetable
 45 glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

1 (c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided
 2 that the process does not involve the use of high heat or pressure; or

3 (d) Any other process identified by the Oregon Health Authority, in consultation with the
 4 Oregon Liquor Control Commission, by rule.

5 [(4)] (3) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concen-
 6 trate, cannabinoid extract or dried leaves or flowers of marijuana have been incorporated.

7 [(5)] (4) “Cannabinoid extract” means a substance obtained by separating cannabinoids from
 8 marijuana by:

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

11 (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the
 12 process uses high heat or pressure; or

13 (c) Any other process identified by the Oregon Health Authority, in consultation with the
 14 Oregon Liquor Control Commission, by rule.

15 [(6)] (5) “Debilitating medical condition” means:

16 (a) Cancer, glaucoma, a degenerative or pervasive neurological condition, positive status for
 17 human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to
 18 the treatment of those medical conditions;

19 (b) A medical condition or treatment for a medical condition that produces, for a specific pa-
 20 tient, one or more of the following:

21 (A) Cachexia;

22 (B) Severe pain;

23 (C) Severe nausea;

24 (D) Seizures, including seizures caused by epilepsy; or

25 (E) Persistent muscle spasms, including spasms caused by multiple sclerosis;

26 (c) Post-traumatic stress disorder; or

27 (d) Any other medical condition or side effect related to the treatment of a medical condition
 28 adopted by the Oregon Health Authority by rule or approved by the authority pursuant to a petition
 29 filed under ORS 475B.946.

30 [(7)(a)] (6)(a) “Delivery” has the meaning given that term in ORS 475.005.

31 (b) “Delivery” does not include transfer of marijuana by a registry identification cardholder to
 32 another registry identification cardholder if no consideration is paid for the transfer.

33 [(8)(a)] (7)(a) “Designated primary caregiver” means an individual:

34 (A) Who is 18 years of age or older;

35 (B) Who has significant responsibility for managing the well-being of a person who has been
 36 diagnosed with a debilitating medical condition; and

37 (C) Who is designated as the person responsible for managing the well-being of a person who
 38 has been diagnosed with a debilitating medical condition on that person’s application for a registry
 39 identification card or in other written notification submitted to the authority.

40 (b) “Designated primary caregiver” does not include a person’s [*attending physician*] **primary**
 41 **care professional**.

42 [(9)] (8) “High heat” means a temperature exceeding 180 degrees.

43 [(10)] (9) “Immature marijuana plant” means a marijuana plant that is not flowering.

44 [(11)(a)] (10)(a) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the
 45 plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

1 (b) "Marijuana" does not include:

2 (A) Industrial hemp, as defined in ORS 571.269; or

3 (B) Prescription drugs, as that term is defined in ORS 689.005, including those containing one
4 or more cannabinoids, that are approved by the United States Food and Drug Administration and
5 dispensed by a pharmacy, as defined in ORS 689.005.

6 [(12)] (11) "Marijuana grow site" means a location registered under ORS 475B.810 where
7 marijuana is produced for use by a registry identification cardholder.

8 [(13)] (12) "Marijuana processing site" means a marijuana processing site registered under ORS
9 475B.840 or a site for which an applicant has submitted an application for registration under ORS
10 475B.840.

11 [(14)] (13) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana
12 plant.

13 [(15)(a)] (14)(a) "Medical cannabinoid product" means a cannabinoid edible and any other prod-
14 uct intended for human consumption or use, including a product intended to be applied to a person's
15 skin or hair, that contains cannabinoids or dried leaves or flowers of marijuana.

16 (b) "Medical cannabinoid product" does not include:

17 (A) Usable marijuana by itself;

18 (B) A cannabinoid concentrate by itself;

19 (C) A cannabinoid extract by itself; or

20 (D) Industrial hemp, as defined in ORS 571.269.

21 [(16)] (15) "Medical marijuana dispensary" means a medical marijuana dispensary registered
22 under ORS 475B.858 or a site for which an applicant has submitted an application for registration
23 under ORS 475B.858.

24 [(17)] (16) "Medical use of marijuana" means the production, processing, possession, delivery or
25 administration of marijuana, or use of paraphernalia used to administer marijuana, to mitigate the
26 symptoms or effects of a debilitating medical condition.

27 [(18)] (17) "Person designated to produce marijuana by a registry identification cardholder"
28 means a person designated to produce marijuana by a registry identification cardholder under ORS
29 475B.810 who produces marijuana for a registry identification cardholder at an address other than
30 the address where the registry identification cardholder resides or at an address where more than
31 12 mature marijuana plants are produced.

32 (18) "Primary care professional" means one of the following health care providers who
33 has primary responsibility for the care and treatment of a person diagnosed with a debili-
34 tating medical condition:

35 (a) A physician licensed under ORS chapter 677;

36 (b) A nurse practitioner licensed under ORS 678.375 to 678.390; or

37 (c) A naturopathic physician licensed under ORS chapter 685.

38 (19) "Process" means the compounding or conversion of marijuana into medical cannabinoid
39 products, cannabinoid concentrates or cannabinoid extracts.

40 (20) "Production" means:

41 (a) Planting, cultivating, growing, trimming or harvesting marijuana; or

42 (b) Drying marijuana leaves or flowers.

43 (21) "Registry identification card" means a document issued by the Oregon Health Authority
44 under ORS 475B.797 that identifies a person authorized to engage in the medical use of marijuana
45 and, if the person has a designated primary caregiver under ORS 475B.804, the person's designated

1 primary caregiver.

2 (22) "Registry identification cardholder" means a person to whom a registry identification card
3 has been issued under ORS 475B.797.

4 (23)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.

5 (b) "Usable marijuana" does not include:

6 (A) The seeds, stalks and roots of marijuana; or

7 (B) Waste material that is a by-product of producing marijuana.

8 (24) "Written documentation" means a statement signed by the *[attending physician]* **primary**
9 **care professional** of a person diagnosed with a debilitating medical condition or copies of the
10 person's relevant medical records.

11 **SECTION 3.** ORS 475B.797 is amended to read:

12 475B.797. (1) The Oregon Health Authority shall establish a program for the issuance of registry
13 identification cards to applicants who meet the requirements of this section.

14 (2) The authority shall issue a registry identification card to an applicant who is 18 years of age
15 or older if the applicant pays a fee in an amount established by the authority by rule and submits
16 to the authority an application containing the following information:

17 (a) Written documentation from the applicant's *[attending physician]* **primary care professional**
18 stating that the *[attending physician]* **primary care professional** has diagnosed the applicant as
19 having a debilitating medical condition and that the medical use of marijuana may mitigate the
20 symptoms or effects of the applicant's debilitating medical condition;

21 (b) The name, address and date of birth of the applicant;

22 (c) The name, address and telephone number of the applicant's *[attending physician]* **primary**
23 **care professional**;

24 (d) Proof of residency, submitted in a form required by the authority by rule;

25 (e) The name and address of the applicant's designated primary caregiver, if the applicant is
26 designating a primary caregiver under ORS 475B.804; and

27 (f) The information described in ORS 475B.810 (2), if the applicant is applying to produce
28 marijuana or designate another person under ORS 475B.810 to produce marijuana.

29 (3)(a) The authority shall issue a registry identification card to an applicant who is under 18
30 years of age if:

31 (A) The applicant pays the fee and submits the application described in subsection (2) of this
32 section; and

33 (B) The custodial parent or legal guardian who is responsible for the health care decisions of
34 the applicant signs and submits to the authority a written statement that:

35 (i) The applicant's *[attending physician]* **primary care professional** has explained to the appli-
36 cant and to the custodial parent or legal guardian the possible risks and benefits of the medical use
37 of marijuana;

38 (ii) The custodial parent or legal guardian consents to the medical use of marijuana by the ap-
39 plicant;

40 (iii) The custodial parent or legal guardian agrees to serve as the applicant's designated primary
41 caregiver; and

42 (iv) The custodial parent or legal guardian agrees to control the acquisition, dosage and fre-
43 quency of the medical use of marijuana by the applicant.

44 (b) An applicant who is under 18 years of age may not apply to produce marijuana under sub-
45 section (2)(f) of this section.

- 1 (4) The authority shall:
- 2 (a) On the date on which the authority receives an application described in subsection (2) of this
3 section, issue a receipt to the applicant verifying that the authority received an application under
4 subsection (2) or (3) of this section; and
- 5 (b) Approve or deny an application received under subsection (2) or (3) of this section within
6 30 days after receiving the application.
- 7 (5)(a) If the authority approves an application, the authority shall issue a serially numbered
8 registry identification card to the applicant within five days after approving the application. The
9 registry identification card must include the following information:
- 10 (A) The registry identification cardholder's name, address and date of birth;
- 11 (B) The issuance date and expiration date of the registry identification card;
- 12 (C) If the registry identification cardholder designated a primary caregiver under ORS 475B.804,
13 the name and address of the registry identification cardholder's designated primary caregiver; and
- 14 (D) Any other information required by the authority by rule.
- 15 (b) If the registry identification cardholder designated a primary caregiver under ORS 475B.804,
16 the authority shall issue an identification card to the designated primary caregiver. The identifica-
17 tion card must contain the information required by paragraph (a) of this subsection.
- 18 (6) A registry identification cardholder shall:
- 19 (a) In a form and manner prescribed by the authority, notify the authority of any change con-
20 cerning the registry identification cardholder's:
- 21 (A) Name, address or *[attending physician]* **primary care professional**;
- 22 (B) Designated primary caregiver, including the designation of a primary caregiver made at a
23 time other than at the time of applying for or renewing a registry identification card; or
- 24 (C) Person responsible for a marijuana grow site, including the designation of a person respon-
25 sible for a marijuana grow site made at a time other than at the time of applying for or renewing
26 a registry identification card.
- 27 (b) Annually renew the registry identification card by paying a fee in an amount established by
28 the authority by rule and submitting to the authority an application that contains the following in-
29 formation:
- 30 (A) Updated written documentation from the registry identification cardholder's *[attending phy-*
31 *sician]* **primary care professional** stating that the registry identification cardholder still has a de-
32 bilitating medical condition and that the medical use of marijuana may mitigate the symptoms or
33 effects of the registry identification cardholder's debilitating medical condition;
- 34 (B) The information described in subsection (2)(b) to (f) of this section; and
- 35 (C) If the registry identification cardholder is under 18 years of age, a statement signed by the
36 custodial parent or legal guardian of the registry identification cardholder that meets the require-
37 ments of subsection (3) of this section.
- 38 (7) The authority shall:
- 39 (a) On the date on which the authority receives an application described in subsection (2) of this
40 section, issue a receipt to the applicant verifying that the authority received an application under
41 subsection (6)(b) of this section; and
- 42 (b) Approve or deny an application received under subsection (6)(b) of this section within 30
43 days after receiving the application.
- 44 (8)(a) If the registry identification cardholder's *[attending physician]* **primary care professional**
45 determines that the registry identification cardholder no longer has a debilitating medical condition,

1 or determines that the medical use of marijuana is contraindicated for the registry identification
2 cardholder's debilitating medical condition, the registry identification cardholder shall return the
3 registry identification card to the authority within 30 calendar days after receiving notice of the
4 determination.

5 (b) If, because of circumstances beyond the control of the registry identification cardholder, a
6 registry identification cardholder is unable to obtain a second medical opinion about the registry
7 identification cardholder's continuing eligibility for the medical use of marijuana before having to
8 return the registry identification card to the authority, the authority may grant the registry iden-
9 tification cardholder additional time to obtain a second medical opinion.

10 (9)(a) The authority may deny an application for a registry identification card or an application
11 to renew a registry identification card, or may suspend or revoke a registry identification card, if:

12 (A) The applicant or registry identification cardholder does not provide the information required
13 by this section;

14 (B) The authority determines that the applicant or registry identification cardholder provided
15 false information; or

16 (C) The authority determines that the applicant or registry identification cardholder violated a
17 provision of ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to 475B.949.

18 (b) If a registry identification card is revoked, any associated identification card issued under
19 subsection (5)(b) of this section, or marijuana grow site registration card issued under ORS 475B.810
20 (6), shall also be revoked.

21 (c) A person whose application is denied, or whose registry identification card is revoked, under
22 this subsection may not reapply for a registry identification card for six months from the date of the
23 denial or revocation unless otherwise authorized by the authority.

24 (10)(a) The authority may deny a designation of a primary caregiver made under ORS 475B.804,
25 or suspend or revoke an associated identification card issued under subsection (5)(b) of this section,
26 if the authority determines that the designee or the registry identification cardholder violated a
27 provision of ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to 475B.949.

28 (b) A person whose designation has been denied, or whose identification card has been revoked,
29 under this subsection may not be designated as a primary caregiver under ORS 475B.804 for six
30 months from the date of the denial or revocation unless otherwise authorized by the authority.

31 (11)(a) Notwithstanding subsection (2) or (6)(b) of this section, if an applicant for a registry
32 identification card, or a registry identification cardholder applying for renewal of a registry iden-
33 tification card, submits to the authority proof of having served in the Armed Forces of the United
34 States, the authority may not impose a fee that is greater than \$20 for the issuance or renewal of
35 the registry identification card.

36 (b) Notwithstanding subsection (6)(b)(A) of this section, the requirement that a registry identifi-
37 cation cardholder include in the application to renew a registry identification card updated written
38 documentation from the cardholder's [attending physician] **primary care professional** regarding the
39 cardholder's continuing debilitating medical condition does not apply to a service-disabled veteran
40 who:

41 (A) Has been assigned a total and permanent disability rating for compensation that rates the
42 veteran as unable to secure or follow a substantially gainful occupation as a result of service-
43 connected disabilities as described in 38 C.F.R. 4.16; or

44 (B) Has a United States Department of Veterans Affairs total disability rating of 100 percent
45 as a result of an injury or illness that the veteran incurred, or that was aggravated, during active

1 military service and who received a discharge or release under other than dishonorable conditions.

2 (12) For any purpose described in ORS 475B.785 to 475B.949, including exemption from criminal
 3 liability under ORS 475B.907, a receipt issued by the authority verifying that an application has
 4 been submitted to the authority under subsection (2), (3) or (6)(b) of this section has the same legal
 5 effect as a registry identification card for 30 days following the date on which the receipt was issued
 6 to the applicant.

7 **SECTION 4.** ORS 475B.810 is amended to read:

8 475B.810. (1)(a) The Oregon Health Authority shall establish by rule a marijuana grow site
 9 registration system to track and regulate the production of marijuana by a registry identification
 10 cardholder or a person designated by the registry identification cardholder to produce marijuana for
 11 the registry identification cardholder.

12 (b) Except as provided in paragraph (c) of this subsection, a person may not produce marijuana
 13 unless the person is registered under this section.

14 (c) Paragraph (b) of this subsection does not apply to the production of marijuana as provided
 15 in ORS 475B.010 to 475B.545 or as otherwise provided for by the statutory laws of this state.

16 (2) Rules adopted under this section must require an applicant for a registry identification card,
 17 or a registry identification cardholder who produces marijuana or who designates another person
 18 to produce marijuana, to submit an application to the authority containing the following information
 19 at the time of making an application under ORS 475B.797 (2), renewing a registry identification card
 20 under ORS 475B.797 (6)(b), or notifying the authority of a change under ORS 475B.797 (6)(a):

21 (a) The name of the person responsible for the marijuana grow site;

22 (b) Proof that the person is 21 years of age or older;

23 *[(c) If the registry identification cardholder or the person responsible for the marijuana grow site*
 24 *is not the owner of the premises of the marijuana grow site, signed informed consent from the owner*
 25 *of the premises to register the premises as a marijuana grow site;]*

26 [(d)] (c) The address of the marijuana grow site; and

27 [(e)] (d) Any other information that the authority considers necessary to track the production
 28 of marijuana under ORS 475B.785 to 475B.949.

29 (3)(a) The authority shall conduct a criminal records check under ORS 181A.195 of any person
 30 whose name is submitted under this section as the person responsible for a marijuana grow site.

31 (b) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the
 32 manufacture or delivery of a controlled substance in Schedule I or Schedule II may not act as or
 33 be designated a person responsible for a marijuana grow site for two years from the date of con-
 34 viction.

35 (c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to
 36 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may
 37 not act as or be designated a person responsible for a marijuana grow site.

38 (4) Subject to subsection (11) of this section, the authority shall issue a marijuana grow site
 39 registration card if the requirements of subsections (2) and (3) of this section are met.

40 (5) A person who holds a marijuana grow site registration card under this section must display
 41 the card at the marijuana grow site at all times.

42 (6) A marijuana grow site registration card must be obtained and posted for each registry
 43 identification cardholder for whom marijuana is being produced at a marijuana grow site.

44 (7)(a) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana as-
 45 sociated with the production of marijuana for a registry identification cardholder by a person re-

1 sponsible for a marijuana grow site are the property of the registry identification cardholder.

2 (b) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana asso-
 3 ciated with the production of marijuana for a registry identification cardholder by a person re-
 4 sponsible for a marijuana grow site must be transferred to the registry identification cardholder
 5 upon the request of the registry identification cardholder.

6 (c) All usable marijuana associated with the production of marijuana for a registry identification
 7 cardholder by a person responsible for a marijuana grow site must be transferred to a marijuana
 8 processing site upon the request of the registry identification cardholder. For purposes of this par-
 9 agraph, a request to transfer usable marijuana constitutes an assignment of the right to possess the
 10 usable marijuana.

11 (d) All seeds, immature marijuana plants and usable marijuana associated with the production
 12 of marijuana for a registry identification cardholder by a person responsible for a marijuana grow
 13 site must be transferred to a medical marijuana dispensary upon request of the registry identifica-
 14 tion cardholder. For purposes of this paragraph, a request to transfer seeds, immature marijuana
 15 plants or usable marijuana constitutes an assignment of the right to possess the seeds, immature
 16 marijuana plants or usable marijuana.

17 (e) Information related to transfers made under this subsection must be submitted to the au-
 18 thority in the manner required by ORS 475B.816.

19 (8) A registry identification cardholder, or the designated caregiver of a registry identification
 20 cardholder, may reimburse a person responsible for a marijuana grow site for all costs associated
 21 with the production of marijuana for the registry identification cardholder.

22 (9) The authority may inspect:

23 (a) The marijuana grow site of a person designated to produce marijuana by a registry identifi-
 24 cation cardholder to ensure compliance with this section and ORS 475B.816 and 475B.831 and any
 25 rule adopted under this section and ORS 475B.816 and 475B.831; and

26 (b) The records of the marijuana grow site of a person designated to produce marijuana by a
 27 registry identification cardholder to ensure compliance with this section and ORS 475B.816 and any
 28 rule adopted under this section and ORS 475B.816.

29 (10) The authority may refuse to register a registry identification cardholder or a designee under
 30 this section or may suspend or revoke the registration of a person responsible for a marijuana grow
 31 site if the authority determines that the applicant or the person responsible for a marijuana grow
 32 site violated a provision of ORS 475B.785 to 475B.949, a rule adopted under ORS 475B.785 to
 33 475B.949 or an ordinance adopted pursuant to ORS 475B.928.

34 (11)(a) **Subject to paragraph (b) of this subsection**, the authority may require a person re-
 35 sponsible for a marijuana grow site, prior to issuing a marijuana grow site registration card under
 36 subsection (4) of this section, to pay a fee reasonably calculated to pay costs incurred under this
 37 section and ORS 475B.816 and 475B.879.

38 **(b) The authority may not charge a fee greater than \$50 for the issuance of a marijuana**
 39 **grow site registration card.**

40 **SECTION 5.** ORS 475B.816 is amended to read:

41 475B.816. (1) A person designated to produce marijuana by a registry identification cardholder
 42 must submit to the Oregon Health Authority, in a form and manner established by the authority by
 43 rule, the following information related to the production of marijuana:

44 (a) The number of mature marijuana plants and immature marijuana plants, the amount of
 45 marijuana leaves and flowers being dried, and the amount of usable marijuana, in the person's pos-

1 session;

2 (b) The number of mature marijuana plants and immature marijuana plants, and the amount of
3 usable marijuana, that the person transfers to each registry identification cardholder for whom the
4 person produces marijuana;

5 (c) The amount of usable marijuana that the person transfers to each marijuana processing site;
6 and

7 (d) The number of immature marijuana plants, and the amount of usable marijuana, that the
8 person transfers to each medical marijuana dispensary.

9 (2) The authority shall by rule require a person designated to produce marijuana by a registry
10 identification cardholder to submit the information described in subsection (1) of this section once
11 each month. The authority may not employ any method other than that described in this section to
12 obtain information related to the production of marijuana from a person designated to produce
13 marijuana by a registry identification cardholder.

14 (3) In addition to submitting the information as required by subsection (1) of this section, a
15 person designated to produce marijuana by a registry identification cardholder must keep a record
16 of the information described in subsection (1) of this section for two years after the date on which
17 the person submits the information to the authority.

18 **(4) This section does not apply to a person who produces marijuana at an address that**
19 **is used to produce marijuana for no more than four registry identification cardholders.**

20 **SECTION 6.** ORS 475B.895 is amended to read:

21 475B.895. (1) The Oregon Health Authority shall enter into an agreement with the Oregon Li-
22 quor Control Commission under which the commission shall use the system developed and main-
23 tained under ORS 475B.177 to track:

24 (a) The propagation of immature marijuana plants and the production of marijuana by marijuana
25 grow sites;

26 (b) The processing of marijuana into medical cannabinoid products, cannabinoid concentrates
27 and cannabinoid extracts that are transferred to a medical marijuana dispensary;

28 (c) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products,
29 cannabinoid concentrates and cannabinoid extracts by a marijuana grow site or a medical marijuana
30 dispensary to a registry identification cardholder or the designated primary caregiver of a registry
31 identification cardholder; and

32 (d) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products,
33 cannabinoid concentrates and cannabinoid extracts between marijuana grow sites, marijuana pro-
34 cessing sites and medical marijuana dispensaries.

35 (2) Marijuana grow sites, marijuana processing sites and medical marijuana dispensaries are
36 subject to tracking under this section.

37 (3) On and after the date on which a marijuana grow site becomes subject to tracking under this
38 section, the person is exempt from the requirements of ORS 475B.816 and the provisions of ORS
39 475B.810 that relate to ORS 475B.816.

40 (4) On and after the date on which a marijuana processing site becomes subject to tracking
41 under this section, the marijuana processing site is exempt from the requirements of ORS 475B.846
42 and the provisions of ORS 475B.840 that relate to ORS 475B.846.

43 (5) On and after the date on which a medical marijuana dispensary becomes subject to tracking
44 under this section, the medical marijuana dispensary is exempt from the requirements of ORS
45 475B.867 and the provisions of ORS 475B.858 that relate to ORS 475B.867.

1 (6) The commission may conduct inspections and investigations of alleged violations of ORS
 2 475B.785 to 475B.949 about which the commission obtains knowledge as a result of performing the
 3 commission’s duties under this section. Notwithstanding ORS 475B.299, the commission may use
 4 regulatory specialists, as defined in ORS 471.001, to conduct the inspections and investigations, in-
 5 cluding inspections and investigations of marijuana grow sites located at a primary residence.

6 (7) When imposing a fee on a person responsible for a marijuana grow site, marijuana processing
 7 site or medical marijuana dispensary under ORS 475B.810, 475B.840 or 475B.858, the authority shall
 8 impose a fee that is reasonably calculated to pay costs incurred under this section. As part of the
 9 agreement entered into under subsection (1) of this section, the authority shall transfer fee moneys
 10 collected pursuant to this subsection to the commission for deposit in the Marijuana Control and
 11 Regulation Fund established under ORS 475B.296. Moneys collected pursuant to this subsection and
 12 deposited in the Marijuana Control and Regulation Fund are continuously appropriated to the com-
 13 mission for purposes of this section.

14 (8) The authority and the commission may adopt rules as necessary to administer this section.

15 (9) This section does not apply to a marijuana grow site located at an address where:

16 (a) A registry identification cardholder produces marijuana and no more than 12 mature
 17 marijuana plants and 24 immature marijuana plants are produced; or

18 (b)(A) No more than two persons are registered under ORS 475B.810 to produce marijuana; and

19 (B) The address is used to produce marijuana for no more than *[two]* **four** registry identification
 20 cardholders.

21 **SECTION 7.** ORS 475B.895, as amended by section 7a, chapter 103, Oregon Laws 2018, and
 22 section 38, chapter 456, Oregon Laws 2019, is amended to read:

23 475B.895. (1) The Oregon Health Authority shall enter into an agreement with the Oregon Li-
 24 quor Control Commission under which the commission shall use the system developed and main-
 25 tained under ORS 475B.177 to track:

26 (a) The propagation of immature marijuana plants and the production of marijuana by marijuana
 27 grow sites;

28 (b) The processing of marijuana into medical cannabinoid products, cannabinoid concentrates
 29 and cannabinoid extracts that are transferred to a medical marijuana dispensary;

30 (c) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products,
 31 cannabinoid concentrates and cannabinoid extracts by a marijuana grow site or a medical marijuana
 32 dispensary to a registry identification cardholder or the designated primary caregiver of a registry
 33 identification cardholder; and

34 (d) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products,
 35 cannabinoid concentrates and cannabinoid extracts between marijuana grow sites, marijuana pro-
 36 cessing sites and medical marijuana dispensaries.

37 (2) Marijuana grow sites, marijuana processing sites and medical marijuana dispensaries are
 38 subject to tracking under this section.

39 (3) On and after the date on which a marijuana grow site becomes subject to tracking under this
 40 section, the person is exempt from the requirements of ORS 475B.816 and the provisions of ORS
 41 475B.810 that relate to ORS 475B.816.

42 (4) On and after the date on which a marijuana processing site becomes subject to tracking
 43 under this section, the marijuana processing site is exempt from the requirements of ORS 475B.846
 44 and the provisions of ORS 475B.840 that relate to ORS 475B.846.

45 (5) On and after the date on which a medical marijuana dispensary becomes subject to tracking

1 under this section, the medical marijuana dispensary is exempt from the requirements of ORS
 2 475B.867 and the provisions of ORS 475B.858 that relate to ORS 475B.867.

3 (6) The commission may conduct inspections and investigations of alleged violations of ORS
 4 475B.785 to 475B.949 about which the commission obtains knowledge as a result of performing the
 5 commission's duties under this section. Notwithstanding ORS 475B.299, the commission may use
 6 regulatory specialists, as defined in ORS 471.001, to conduct the inspections and investigations, in-
 7 cluding inspections and investigations of marijuana grow sites located at a primary residence.

8 (7) Notwithstanding ORS 475B.759, before making any other distribution from the Oregon
 9 Marijuana Account established under ORS 475B.759, the Department of Revenue shall first distrib-
 10 ute moneys quarterly from the account to the commission for deposit in the Marijuana Control and
 11 Regulation Fund established under ORS 475B.296 for purposes of paying administrative, inspection
 12 and investigatory costs incurred by the commission under this section, provided that the amount of
 13 distributed moneys does not exceed \$1.25 million per quarter. For purposes of estimating the amount
 14 of moneys necessary to pay costs incurred under this section, the commission shall establish a
 15 formulary based on expected costs for each marijuana grow site, marijuana processing site or med-
 16 ical marijuana dispensary that is tracked under this section. The commission shall provide to the
 17 Department of Revenue and the Legislative Fiscal Officer before each quarter the estimated amount
 18 of moneys necessary to pay costs expected to be incurred under this section and the formulary.

19 (8) When imposing a fee on a person responsible for a marijuana grow site, marijuana processing
 20 site or medical marijuana dispensary under ORS 475B.810, 475B.840 or 475B.858, the authority shall
 21 impose an additional fee that is reasonably calculated to pay costs incurred under this section other
 22 than costs paid pursuant to subsection (7) of this section. As part of the agreement entered into
 23 under subsection (1) of this section, the authority shall transfer fee moneys collected pursuant to
 24 this subsection to the commission for deposit in the Marijuana Control and Regulation Fund estab-
 25 lished under ORS 475B.296. Moneys collected pursuant to this subsection and deposited in the
 26 Marijuana Control and Regulation Fund are continuously appropriated to the commission for pur-
 27 poses of this section.

28 (9) The authority and the commission may adopt rules as necessary to administer this section.

29 (10) This section does not apply to a marijuana grow site located at an address where:

30 (a) A registry identification cardholder produces marijuana and no more than 12 mature
 31 marijuana plants and 24 immature marijuana plants are produced; or

32 (b)(A) No more than two persons are registered under ORS 475B.810 to produce marijuana; and

33 (B) The address is used to produce marijuana for no more than *[two]* **four** registry identification
 34 cardholders.

35 **SECTION 8.** ORS 475B.913 is amended to read:

36 475B.913. (1) Except as provided in ORS 475B.910, a person has an affirmative defense to a
 37 criminal charge of possession, delivery or manufacture of marijuana, or any other criminal offense
 38 in which possession, delivery or manufacture of marijuana is an element, if the person charged with
 39 the offense:

40 (a) Was diagnosed with a debilitating medical condition within 12 months of the date on which
 41 the person was arrested and was advised by the person's *[attending physician]* **primary care pro-**
 42 **fessional** that the medical use of marijuana may mitigate the symptoms or effects of that debilitat-
 43 ing medical condition;

44 (b) Is engaged in the medical use of marijuana; and

45 (c) Possesses, delivers or manufactures marijuana only in quantities permitted under ORS

1 475B.831.

2 (2) A person does not need to lawfully possess a registry identification card to assert the affir-
 3 mative defense established in this section.

4 (3) A person engaged in the medical use of marijuana who claims that marijuana provides med-
 5 ically necessary benefits and who is charged with a crime pertaining to the use of marijuana is not
 6 precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from pre-
 7 senting evidence supporting the necessity of marijuana for treatment of a specific disease or medical
 8 condition, provided that:

9 (a) The person possesses, delivers or manufactures marijuana only as permitted under ORS
 10 475B.831 (1); and

11 (b) The person has taken a substantial step toward complying with the provisions of ORS
 12 475B.785 to 475B.949.

13 (4) A defendant proposing to use the affirmative defense established in this section in a criminal
 14 action shall, not less than five days before the trial of the cause, file and serve upon the district
 15 attorney a written notice of the intention to assert the affirmative defense. The notice must specif-
 16 ically state the reasons why the defendant is entitled to assert the affirmative defense and the fac-
 17 tual basis for the affirmative defense. If the defendant fails to file and serve the notice, the defendant
 18 is not permitted to assert the affirmative defense at the trial of the cause unless the court orders,
 19 for good cause, otherwise.

20 **SECTION 9.** ORS 475B.916 is amended to read:

21 475B.916. The **Oregon Board of Naturopathic Medicine, Oregon Medical Board and Oregon**
 22 **State Board of Nursing** may not impose a civil penalty or take other disciplinary action against
 23 [*an attending physician*] **a primary care professional** for:

24 (1) Advising a person diagnosed as having a debilitating medical condition by the [*attending*]
 25 [*physician*] **primary care professional** or another physician licensed under ORS chapter 677, **nurse**
 26 **practitioner licensed under ORS 678.375 to 678.390 or naturopathic physician licensed under**
 27 **ORS chapter 685** about the risks and benefits associated with the medical use of marijuana or that
 28 the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating
 29 medical condition, provided that the advice is based on the [*attending physician's*] **primary care**
 30 **professional's** personal assessment of the person's medical history and current medical condition;
 31 or

32 (2) Providing the written documentation necessary for issuance or renewal of a registry iden-
 33 tification card under ORS 475B.797, provided that the written documentation is based on the [*at-*
 34 [*tending physician's*] **primary care professional's** personal assessment of the person's medical
 35 history and current medical condition and the [*attending physician*] **primary care professional** has
 36 discussed with the person the potential risks and benefits associated with the medical use of
 37 marijuana.

38 **SECTION 10.** ORS 475B.952 is amended to read:

39 475B.952. (1) The Oregon Cannabis Commission is established within the Oregon Health Au-
 40 thority. The commission consists of:

41 (a) The Public Health Officer or the Public Health Officer's designee; and

42 (b) Eight members appointed by the Governor as follows:

43 (A) A registry identification cardholder, as defined in ORS 475B.791;

44 (B) A person designated to produce marijuana by a registry identification cardholder, as defined
 45 in ORS 475B.791;

1 (C) [*An attending physician*] **A primary care professional**, as defined in ORS 475B.791;

2 (D) A person representing the Oregon Health Authority;

3 (E) A person representing the Oregon Liquor Control Commission;

4 (F) A local health officer, as described in ORS 431.418;

5 (G) A law enforcement officer; and

6 (H) A person knowledgeable about research proposal grant protocols.

7 (2) The term of office of each member of the commission is four years, but a member serves at
8 the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall
9 appoint a successor whose term begins on January 1 of the following year. A member is eligible for
10 reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to be-
11 come immediately effective for the unexpired term.

12 (3) The appointment of each member of the commission is subject to confirmation by the Senate
13 in the manner prescribed in ORS 171.562 and 171.565.

14 (4) Members of the commission are not entitled to compensation, but may be reimbursed for
15 actual and necessary travel and other expenses incurred by them in the performance of their official
16 duties in the manner and amounts provided for in ORS 292.495.

17 **SECTION 11. The amendments to ORS 475B.816 and 475B.895 by sections 5 and 6 of this**
18 **2021 Act apply to marijuana produced on or after the effective date of this 2021 Act.**

19 **SECTION 12. This 2021 Act takes effect on the 91st day after the date on which the 2021**
20 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

21