

Requested by Senator PROZANSKI

**PROPOSED AMENDMENTS TO
SENATE BILL 408**

1 On page 1 of the printed bill, line 2, after “marijuana” insert “; creating
2 new provisions; and amending ORS 475B.070, 475B.206, 475B.256, 475B.337,
3 475B.341, 475B.346, 475B.615 and 475B.625”.

4 Delete lines 4 through 30 and delete page 2 and insert:
5

6 **“ENFORCEMENT REFORM**
7

8 **“SECTION 1. Sections 2 and 3 of this 2021 Act are added to and
9 made a part of ORS 475B.010 to 475B.545.**

10 **“SECTION 2. (1) The Oregon Liquor Control Commission may not
11 pause the processing or issuance of a new license, a change to an ex-
12 isting license or a license renewal under ORS 475B.010 to 475B.545
13 solely for the reason that an investigation into a potential violation
14 of ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to
15 475B.545 is pending against the licensee.**

16 **“(2) If the commission makes a finding that the licensee committed
17 the violation for which the investigation described in subsection (1)
18 of this section was pending, the commission may revoke, suspend or
19 restrict a license issued to the licensee.**

20 **“(3) This section applies to licensees that apply for additional li-
21 censes, changed licenses or renewed licenses. This section does not**

1 apply to a person that is not a licensee.

2 “(4) The commission may adopt rules to carry out this section, in-
3 cluding rules to specify potential violations that pose a threat to public
4 safety, in such a manner that the commission may pause the pro-
5 cessing or issuance of a license described in subsection (1) of this sec-
6 tion until the commission makes a finding that the licensee did not
7 commit the violation.

8 “SECTION 3. (1) As used in this section, ‘appropriate,’ ‘deprive,’
9 ‘obtain’ and ‘property’ have the meanings given those terms in ORS
10 164.005.

11 “(2) The Oregon Liquor Control Commission may not impose disci-
12 pline on a licensee or licensee representative for a violation of ORS
13 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545
14 if the violation occurs because a person, with intent to deprive the
15 licensee or licensee representative of property, takes, appropriates,
16 obtains or withholds the property from the licensee or licensee repre-
17 sentative.

18 “SECTION 4. Sections 2 and 3 of this 2021 Act apply to violations
19 that occur on and after the effective date of this 2021 Act.

20 “SECTION 5. ORS 475B.256 is amended to read:

21 “475B.256. (1) The Oregon Liquor Control Commission may revoke, sus-
22 pend or restrict a license issued under ORS 475B.010 to 475B.545 or require
23 a licensee or licensee representative to undergo training if the commission
24 finds or has reasonable ground to believe [*any of the following to be true:*]

25 “[*(a)*] that the licensee or licensee representative, **under the direction**
26 **and with the knowledge of the licensee:**

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

29 “**(a) Has intentionally diverted marijuana to the interstate market**
30 **or an illicit market or has intentionally diverted resources to a crim-**

1 **inal enterprise.**

2 “[B] (b) Has **knowingly** made any false representation or statement to
3 the commission **regarding compliance with a provision of ORS 475B.010**
4 **to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545** in order
5 to induce or prevent action by the commission, **and notwithstanding any**
6 **other provision of this section, the commission is able to demonstrate**
7 **clear and convincing evidence of the licensee’s or licensee**
8 **representative’s intent to deceive.**

9 “[C] *Is insolvent or incompetent or physically unable to carry on the*
10 *management of the establishment of the licensee.*]

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

13 “[E] (d) Has **intentionally** misrepresented to a customer or the public
14 any marijuana items sold by the licensee or licensee representative.

15 “[F] (e) Since the issuance of the license, has been convicted of a felony,
16 of violating any of the marijuana laws of this state, general or local, or of
17 any misdemeanor or violation of any municipal ordinance committed on the
18 premises for which the license has been issued.

19 **“(f) Has intentionally sold a marijuana item to a person under 21**
20 **years of age.**

21 “[b] *That there is any other reason that, in the opinion of the commission,*
22 *based on public convenience or necessity, warrants revoking, suspending or*
23 *restricting the license.*]

24 **“(2) The commission may suspend or restrict a license issued under**
25 **ORS 475B.010 to 475B.545 or require a licensee or licensee represen-**
26 **tative to undergo training if the commission finds or has reasonable**
27 **grounds to believe that the licensee or licensee representative has vi-**
28 **olated a provision of ORS 475B.010 to 475B.545 to a rule adopted under**
29 **ORS 475B.010 to 475B.545.**

30 “[2)(a)] (3)(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 con-
3 secutive quarters and the Department of Revenue has issued to the licensee
4 a distraint warrant under ORS 475B.715 for the nonpayment of tax; or

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

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

14

15 **“TRANSFER OF MARIJUANA**

16

17 **“SECTION 6. Sections 7 and 8 of this 2021 Act are added to and**
18 **made a part of ORS 475B.010 to 475B.545.**

19 **“SECTION 7. (1) A marijuana producer that holds a license issued**
20 **under ORS 475B.070 may deliver to or receive from a marijuana**
21 **processor that holds a license issued under ORS 475B.090:**

22 **“(a) Cannabinoid products, cannabinoid extracts and cannabinoid**
23 **concentrates processed by the marijuana processor from marijuana**
24 **produced by the marijuana producer that does not contain marijuana**
25 **produced by any other marijuana producer; and**

26 **“(b) Marijuana produced by the marijuana producer that the**
27 **marijuana processor received from the marijuana producer but that**
28 **the marijuana processor did not process.**

29 **“(2) Two or more marijuana producers that hold licenses issued**
30 **under ORS 475B.070 and are commonly owned by the same person may**

1 deliver to and receive from one another marijuana and usable
2 marijuana.

3 **“SECTION 8. (1) In order to transport marijuana or marijuana**
4 **items, a licensee must create a manifest that contains the following**
5 **information:**

6 **“(a) The name of the driver of the transport vehicle;**

7 **“(b) Identifying information for the driver’s permit issued under**
8 **ORS 475B.266;**

9 **“(c) The name of the licensee from which the marijuana or**
10 **marijuana items are being transported; and**

11 **“(d) A detailed inventory of the marijuana and marijuana items**
12 **being transported.**

13 **“(2) A manifest created under this section is not required to include**
14 **transport route information.**

15 **“(3) The transport driver shall carry in the transport vehicle a copy**
16 **of the manifest.**

17

18 **“MARIJUANA PLANT DIVERSITY**

19

20 **“SECTION 9. ORS 475B.070 is amended to read:**

21 **“475B.070. (1) The production of marijuana is subject to regulation by the**
22 **Oregon Liquor Control Commission.**

23 **“(2) A marijuana producer must have a production license issued by the**
24 **commission for the premises at which the marijuana is produced. To hold a**
25 **production license issued under this section, a marijuana producer:**

26 **“(a) Must apply for a license in the manner described in ORS 475B.040;**

27 **“(b) Must provide proof that the applicant is 21 years of age or older; and**

28 **“(c) Must meet the requirements of any rule adopted by the commission**
29 **under subsections (3) and (4) of this section.**

30 **“(3)(a) If the applicant is not the owner of the premises at which the**

1 marijuana is to be produced, the applicant shall submit to the commission
2 signed informed consent from the owner of the premises to produce
3 marijuana at the premises.

4 “(b) The commission may adopt rules regarding the informed consent de-
5 scribed in this subsection.

6 “(4) The commission shall adopt rules that:

7 “(a) Require a marijuana producer to annually renew a license issued
8 under this section;

9 “(b) Establish application, licensure and renewal of licensure fees for
10 marijuana producers;

11 “(c) Require marijuana produced by marijuana producers to be tested in
12 accordance with ORS 475B.555;

13 “(d) Assist the viability of marijuana producers that are independently
14 owned and operated and that are limited in size and revenue with respect to
15 other marijuana producers, by minimizing barriers to entry into the regu-
16 lated system and by expanding, to the extent practicable, transportation
17 options that will support their access to the retail market;

18 “(e) Allow a marijuana producer registered under ORS 475B.136 to
19 produce marijuana for medical purposes in the same manner that rules
20 adopted under ORS 475B.010 to 475B.545 allow a marijuana producer to
21 produce marijuana for nonmedical purposes, excepting those circumstances
22 where differentiating between the production of marijuana for medical pur-
23 poses and the production of marijuana for nonmedical purposes is necessary
24 to protect the public health and safety;

25 “(f) Require marijuana producers to submit, at the time of applying for
26 or renewing a license under ORS 475B.040, a report describing the applicant’s
27 or licensee’s electrical or water usage; *[and]*

28 “(g) Require a marijuana producer to meet any public health and safety
29 standards and industry best practices established by the commission by rule
30 related to the production of marijuana or the propagation of immature

1 marijuana plants and marijuana seeds; **and**

2 **“(h) Support marijuana plant diversity by allowing a qualified**
3 **marijuana producer to receive marijuana seeds from any source in this**
4 **state.**

5 “(5) Fees adopted under subsection (4)(b) of this section:

6 “(a) May not exceed, together with other fees collected under ORS
7 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545;

8 “(b) Shall be in the form of a schedule that imposes a greater fee for
9 premises with more square footage or on which more marijuana plants are
10 grown; and

11 “(c) Shall be deposited in the Marijuana Control and Regulation Fund
12 established under ORS 475B.296.

13 **“SECTION 10.** ORS 475B.206 is amended to read:

14 “475B.206. (1) Except as provided in ORS 475B.136 and 475B.873 **and rules**
15 **adopted pursuant to ORS 475B.070**, a marijuana producer that holds a li-
16 cense issued under ORS 475B.070, marijuana processor that holds a license
17 issued under ORS 475B.090 or marijuana wholesaler that holds a license is-
18 sued under ORS 475B.100 may deliver marijuana items only to or on a
19 premises for which a license has been issued under ORS 475B.070, 475B.090,
20 475B.100 or 475B.105, or to a registry identification cardholder or designated
21 primary caregiver as allowed under ORS 475B.010 to 475B.545.

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

24 “(a) A marijuana producer that holds a license issued under ORS
25 475B.070, marijuana processor that holds a license issued under ORS
26 475B.090, marijuana wholesaler that holds a license issued under ORS
27 475B.100, marijuana retailer that holds a license issued under ORS 475B.105
28 or a laboratory licensed under ORS 475B.560;

29 “(b) A researcher of cannabis that holds a certificate issued under ORS
30 475B.286 and that transfers limited amounts of marijuana, usable marijuana,

1 cannabinoid products, cannabinoid concentrates and cannabinoid extracts in
2 accordance with procedures adopted under ORS 475B.286 (3)(d) and (e);

3 “(c) A marijuana grow site registered under ORS 475B.810, marijuana
4 processing site registered under ORS 475B.840, or a medical marijuana
5 dispensary registered under ORS 475B.858, acting in accordance with proce-
6 dures adopted by the Oregon Liquor Control Commission under ORS
7 475B.167; or

8 “(d) A marijuana grow site registered under ORS 475B.810, acting in ac-
9 cordance with ORS 475B.825 and any procedures adopted by rule by the
10 commission.

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

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

22

23 **“POSSESSION AND CONCENTRATION LIMITS**

24

25 **“SECTION 11.** ORS 475B.337 is amended to read:

26 “475B.337. (1) Except for licensees and licensee representatives acting in
27 accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS
28 475B.010 to 475B.545, it is unlawful for any person 21 years of age or older
29 to possess, knowingly or intentionally:

30 “(a) An amount of plants in the genus Cannabis within the plant family

1 Cannabaceae in excess of the amount allowed under ORS 475B.301 (1).

2 “(b) More than [*one ounce*] **two ounces** of usable marijuana in a public
3 place.

4 “(c) More than eight ounces of usable marijuana.

5 “(d) More than 16 ounces of cannabinoid products in solid form or
6 cannabinoid concentrates.

7 “(e) More than 72 ounces of cannabinoid products in liquid form.

8 “(f) More than one ounce of cannabinoid extracts.

9 “(g) A cannabinoid extract that was not purchased from a marijuana
10 retailer that holds a license issued under ORS 475B.105.

11 “(2) Except as provided in subsection (3) of this section, unlawful pos-
12 session of a marijuana item is a Class A misdemeanor.

13 “(3) Unlawful possession of a marijuana item is:

14 “(a) A Class B violation, if the amount possessed is not more than two
15 times the applicable maximum amount specified in subsection (1)(a) to (f) of
16 this section.

17 “(b) A Class B misdemeanor, if the amount possessed is more than two
18 times, but not more than four times, the applicable maximum amount speci-
19 fied in subsection (1)(a) to (f) of this section.

20 “(c) A Class C felony, if the amount possessed is:

21 “(A) More than 16 times the applicable maximum amount specified in
22 subsection (1)(a), (c), (d), (e) or (f) of this subsection;

23 “(B) More than [*eight*] **16** pounds of usable marijuana in a public place;
24 or

25 “(C) More than one-quarter ounce of cannabinoid extract that was not
26 purchased from a marijuana retailer that holds a license issued under ORS
27 475B.105.

28 “**SECTION 12.** ORS 475B.341 is amended to read:

29 “475B.341. (1) Except for licensees and licensee representatives acting in
30 accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS

1 475B.010 to 475B.545, it is unlawful for any person under 21 years of age to
2 possess, knowingly or intentionally:

3 “(a) An amount of plants in the genus Cannabis within the plant family
4 Cannabaceae in excess of the amount allowed under ORS 475B.301 (1).

5 “(b) More than [*one ounce*] **two ounces** of usable marijuana in a public
6 place.

7 “(c) More than eight ounces of usable marijuana.

8 “(d) More than 16 ounces of cannabinoid products in solid form or
9 cannabinoid concentrates.

10 “(e) More than 72 ounces of cannabinoid products in liquid form.

11 “(f) More than one ounce of cannabinoid extracts.

12 “(g) A cannabinoid extract that was not purchased from a marijuana
13 retailer that holds a license under ORS 475B.105.

14 “(2) Except as provided in subsection (3) of this section, unlawful pos-
15 session of a marijuana item by a person under 21 years of age is a Class A
16 misdemeanor.

17 “(3) Unlawful possession of a marijuana item by a person under 21 years
18 of age is a Class C felony, if the amount possessed is:

19 “(a) More than 16 times the applicable maximum amount specified in
20 subsection (1)(a), (c), (d), (e) or (f) of this subsection;

21 “(b) More than [*eight*] **16** pounds of usable marijuana in a public place;
22 or

23 “(c) More than one-quarter ounce of cannabinoid extract that was not
24 purchased from a marijuana retailer that holds a license issued under ORS
25 475B.105.

26 “**SECTION 13.** ORS 475B.346 is amended to read:

27 “475B.346. (1) Except for licensees and licensee representatives acting in
28 accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS
29 475B.010 to 475B.545, and except for a person acting within the scope of and
30 in compliance with ORS 475B.301, it is unlawful for any person to deliver a

1 marijuana item.

2 “(2) Except as provided in subsection (3) of this section, unlawful delivery
3 of a marijuana item is a Class A misdemeanor.

4 “(3) Unlawful delivery of a marijuana item is:

5 “(a) A Class B misdemeanor, if a person 21 years of age or older unlaw-
6 fully delivers usable marijuana, for no consideration, to a person 21 years
7 of age or older, and the total amount of usable marijuana delivered is not
8 more than twice the amount described in ORS 475B.301 (7).

9 “(b) A Class C felony, if:

10 “(A) The delivery involves:

11 “(i) More than 16 times the applicable maximum amount specified in ORS
12 475B.337 (1)(a), (c), (d), (e) or (f);

13 “(ii) More than [*eight*] **16** pounds of usable marijuana in a public place;
14 or

15 “(iii) More than one-quarter ounce of cannabinoid extract that was not
16 purchased from a marijuana retailer that holds a license issued under ORS
17 475B.105.

18 “(B) The marijuana item is delivered to a person under 21 years of age,
19 unless the person delivering the marijuana item is under 24 years of age at
20 the time of the delivery and delivers not more than one ounce of usable
21 marijuana, for no consideration, to a person who is 16 years of age or older.

22 “**SECTION 14.** ORS 475B.625 is amended to read:

23 “475B.625. (1) The Oregon Health Authority shall adopt rules establishing:

24 “(a) The maximum concentration of tetrahydrocannabinol that is permit-
25 ted in a single serving of a cannabinoid product or cannabinoid concentrate
26 or extract; and

27 “(b) The number of servings that are permitted in a **package of**
28 cannabinoid product or cannabinoid concentrate or extract [*package*].

29 “(2)(a) In adopting rules under subsection (1)(a) of this section, the au-
30 thority shall prescribe the different levels of concentration of

1 tetrahydrocannabinol that is permitted in a single serving of a cannabinoid
2 product or cannabinoid concentrate or extract for:

3 “(A) Consumers who hold a valid registry identification card issued under
4 ORS 475B.797; and

5 “(B) Consumers who do not hold a valid registry identification card issued
6 under ORS 475B.797.

7 “(b) In prescribing the levels of concentration of tetrahydrocannabinol
8 that is permitted in a single serving of a cannabinoid product or cannabinoid
9 concentrate or extract for consumers who hold a valid registry identification
10 card issued under ORS 475B.797, the authority shall consider the appropriate
11 level of concentration necessary to mitigate the symptoms or effects of a
12 debilitating medical condition, as defined in ORS 475B.791.

13 “(3) In adopting rules under ORS 475B.785 to 475B.949, the authority shall
14 require all usable marijuana, cannabinoid products and cannabinoid concen-
15 trates and extracts transferred by a medical marijuana dispensary registered
16 under ORS 475B.858 to meet the concentration standards and [*packaging*]
17 **servings per package** standards adopted by rule pursuant to this section.

18 “(4)(a) In adopting rules under ORS 475B.010 to 475B.545, the Oregon Li-
19 quor Control Commission shall require all usable marijuana, cannabinoid
20 products and cannabinoid concentrates and extracts sold or transferred by
21 a marijuana retailer that holds a license under ORS 475B.105 to meet the
22 concentration standards and [*packaging*] **servings per package** standards
23 adopted by rule pursuant to this section.

24 “(b) **The rules adopted by the commission under this subsection**
25 **must allow for a concentration of up to 100 milligrams of**
26 **tetrahydrocannabinol per serving in cannabinoid edibles.**

27

28

“PACKAGING REQUIREMENTS

29

30 “**SECTION 15.** ORS 475B.615 is amended to read:

1 “475B.615. (1) As is necessary to protect the public health and safety, and
2 in consultation with the Oregon Health Authority and the State Department
3 of Agriculture, the Oregon Liquor Control Commission shall adopt rules es-
4 tablishing standards for the packaging of marijuana items, including but not
5 limited to:

6 “(a) Ensuring that [*usable marijuana*,] cannabinoid concentrates and ex-
7 tracts, cannabinoid edibles and other cannabinoid products are:

8 “(A) Packaged in child-resistant safety packaging; and

9 “(B) Not marketed in a manner that:

10 “(i) Is untruthful or misleading;

11 “(ii) Is attractive to minors; or

12 “(iii) Otherwise creates a significant risk of harm to public health and
13 safety; [*and*]

14 “(b) **Ensuring that usable marijuana, including usable marijuana**
15 **that is prerolled, is not marketed in a manner that:**

16 “(A) **Is truthful or misleading;**

17 “(B) **Is attractive to minors; or**

18 “(C) **Otherwise creates a significant risk of harm to public health**
19 **and safety; and**

20 “[*b*] (c) Ensuring that cannabinoid edibles and other cannabinoid pro-
21 ducts are not packaged in a manner that is attractive to minors.

22 “(2) In adopting rules under ORS 475B.785 to 475B.949, the authority shall
23 require all usable marijuana, cannabinoid products and cannabinoid concen-
24 trates and extracts transferred by a medical marijuana dispensary registered
25 under ORS 475B.858 to be packaged in accordance with subsection (1) of this
26 section and rules adopted under subsection (1) of this section.

27 “(3) In adopting rules under ORS 475B.010 to 475B.545, the commission
28 shall require all usable marijuana, cannabinoid products and cannabinoid
29 concentrates and extracts sold or transferred by a marijuana retailer that
30 holds a license under ORS 475B.105 to be packaged in accordance with sub-

1 section (1) of this section and rules adopted under subsection (1) of this
2 section.

3 “(4) In adopting rules under subsection (1) of this section the commission:

4 “(a) May establish different packaging standards for different varieties
5 of usable marijuana and for different types of cannabinoid products and
6 cannabinoid concentrates and extracts;

7 “(b) May establish different minimum packaging standards for persons
8 registered under ORS 475B.785 to 475B.949 and persons licensed under ORS
9 475B.010 to 475B.545;

10 “(c) May consider the effect on the environment of requiring certain
11 packaging;

12 “(d) Shall consider the cost of a potential requirement and how that cost
13 will affect the cost to the ultimate consumer of the marijuana item; [and]

14 “(e) **May not require that usable marijuana, including prerolled us-**
15 **able marijuana, be packaged in a continually child-resistant and re-**
16 **sealable exit package; and**

17 “[e)] (f) May not adopt rules that are more restrictive than is reasonably
18 necessary to protect the public health and safety.

19 **“SECTION 16. The Oregon Liquor Control Commission shall study**
20 **the laws of this state and the commission rules related to recreational**
21 **marijuana and identify any changes to laws or rules that would fur-**
22 **ther reduce the use of plastics by the recreational marijuana industry.**
23 **Not later than December 31, 2022, the commission shall report its**
24 **findings and recommendations for legislation and rules changes to an**
25 **interim committee of the Legislative Assembly related to the envi-**
26 **ronment.**

27 **“SECTION 17. Section 16 of this 2021 Act is repealed on January 2,**
28 **2023.**

29

30

“CAPTIONS

1 **“SECTION 18. The unit captions used in this 2021 Act are provided**
2 **only for the convenience of the reader and do not become part of the**
3 **statutory law of this state or express any legislative intent in the**
4 **enactment of this 2021 Act.”.**

5
