

**Minority Report**  
**A-Engrossed**  
**Senate Bill 326**

Ordered by the Senate April 5  
Including Senate Minority Report Amendments dated April 5

Sponsored by nonconcurring members of the Senate Committee on Judiciary: Senators LINTHICUM, THATCHER

**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.

Requires owner of real property where site of unlawful manufacture of marijuana or unlawful production of marijuana is located to clean up waste from site upon receipt of notification from law enforcement agency. **Provides lessee of real property is responsible for cleanup of site in certain circumstances.** Provides that failure to timely complete cleanup is public nuisance. Authorizes local government to take certain actions to abate public nuisance, including filing claim of lien against real property.

Prohibits use of water at location not licensed or registered for growing of cannabis. Allows Water Resources Commission to impose civil penalty for violation. Punishes by maximum of 364 days' imprisonment, \$6,250 fine, or both.

Allows use of mobile tracking device and pen register and law enforcement interception of oral communications in specified circumstances. Increases penalties for possession or manufacture of marijuana in specified quantities. Creates crimes of marijuana offense involving reckless unlawful conduct and marijuana offense involving knowing unlawful conduct. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both.

Repeals sunset on provisions related to unlawful production of marijuana.

**Requires applicant for license to produce marijuana to submit to Oregon Liquor and Cannabis Commission information regarding ownership and location of premises to be licensed. Prohibits commission from issuing license in specified circumstances.**

**Requires applicant for medical marijuana grow site registration to submit to Oregon Health Authority information regarding ownership and location of premises to be registered. Prohibits authority from issuing registration in specified circumstances.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to cannabis; creating new provisions; amending ORS 133.619, 133.726, 165.663, 475C.037,  
3 475C.065, 475C.337, 475C.341, 475C.349, 475C.353, 475C.792, 536.900 and 537.990 and section 45,  
4 chapter 54, Oregon Laws 2021; and declaring an emergency.

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

6 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 475C.005 to**  
7 **475C.525.**

8 **SECTION 2. (1) As used in this section:**

9 (a) "Cleanup" means the removal, by an owner or an agent of an owner, of waste from  
10 a site.

11 (b) "Cleanup costs" means reasonable costs that are associated with or attributable to  
12 cleanup.

13 (c)(A) "Owner" means a person who owns the real property where a site is located.

14 (B) "Owner" does not include a person who, without participating in the management of  
15 the site, holds indicia of ownership primarily to protect a security interest in the real prop-

**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 erty.

2 (d) "Site" means the location where the unlawful manufacture of a marijuana item, as  
3 described in ORS 475C.349, or the unlawful production of marijuana, as described in section  
4 41, chapter 542, Oregon Laws 2021, occurred or is alleged to have occurred.

5 (e) "Waste" means:

6 (A) Marijuana flowers, marijuana leaves, marijuana plants and any parts of marijuana  
7 plants;

8 (B) Any items or materials used for an irrigation system;

9 (C) Greenhouses, hoop houses and other structures used to facilitate the unlawful man-  
10 ufacture of marijuana items; and

11 (D) Any material or substance designated as chemical by the Environmental Quality  
12 Commission under ORS 475.425.

13 (2) Upon receiving written notification from a law enforcement agency that a site con-  
14 tains waste, the owner shall promptly undertake any cleanup of the site. The owner may  
15 contract with a third party for all or part of the cleanup.

16 (3) It is a public nuisance, which may be abated pursuant to subsection (4) of this section,  
17 if the owner of a site described in subsection (2) of this section fails to complete cleanup of  
18 the site within 30 days of the date on which the owner receives the notification described in  
19 subsection (2) of this section.

20 (4) In order to abate a public nuisance described in subsection (3) of this section, the city  
21 or county that has jurisdiction over the real property where a site described in subsection  
22 (2) of this section is located may maintain civil proceedings in courts of this state against  
23 the owner described in subsection (3) of this section to:

24 (a) Enforce the requirements of subsection (2) of this section;

25 (b) Authorize the city or county to conduct cleanup and subject the real property where  
26 the site is located to a lien for cleanup costs; and

27 (c) Enjoin any further violation of ORS 475C.349 or section 41, chapter 542, Oregon Laws  
28 2021.

29 (5) A court may allow the prevailing party reasonable attorney fees and expenses in a  
30 proceeding described in subsection (4) of this section.

31 (6)(a) The remedies described in subsection (4) of this section are in addition to any other  
32 remedies available to the governing body of a city or county that has jurisdiction over the  
33 real property where a site is located.

34 (b) Nothing in this section requires the governing body of a city or county to avail itself  
35 of a remedy allowed by this section or by any other law.

36 (7)(a) The governing body of a city or county described in subsection (4) of this section  
37 may, at its discretion, file a claim of lien on real property where a site described in sub-  
38 section (2) of this section is located. The governing body of the city or county shall file  
39 written notice of claim of lien with the recording officer of each county in which the real  
40 property where a site described in subsection (2) of this section is located. All cleanup costs  
41 incurred by the city or county under subsection (4)(b) of this section shall constitute the lien.  
42 The lien must contain the name of the owner of the real property to which the lien is at-  
43 tached and a description of the real property sufficient to accurately identify the real prop-  
44 erty. The lien shall attach and become enforceable on the day of the filing described in this  
45 subsection.

1       **(b) A lien described in this subsection shall be foreclosed in the manner provided in ORS**  
2 **chapter 88.**

3       **(c) A lien described in this subsection shall have priority over any claim of the state**  
4 **under ORS 166.715 to 166.735 or any local government forfeiture ordinance or regulation.**

5       **(8) Nothing in this section shall affect the right of the governing body of a city or county**  
6 **to bring an action against any person to recover all costs and damages for which the person**  
7 **is liable under this section.**

8       **(9)(a) Notwithstanding subsections (2) to (8) of this section, the lessee of real property**  
9 **where a site is located shall be held responsible for the cleanup of the site if the owner of**  
10 **the real property demonstrates that:**

11       **(A) The real property was leased to another party; and**

12       **(B) The owner did not know that the real property was used by the lessee for or in con-**  
13 **nection with the unlawful manufacture of a marijuana item or the unlawful production of**  
14 **marijuana.**

15       **(b) The owner of real property described in paragraph (a) of this subsection may not be**  
16 **held responsible for the cleanup of the site.**

17       **(c) The city or county that has jurisdiction over the real property described in paragraph**  
18 **(a) of this subsection has the burden of proving that the owner of the real property knew**  
19 **that the real property was being used for or in connection with the unlawful manufacture**  
20 **of a marijuana item or the unlawful production of marijuana.**

21       **SECTION 3.** **A person may not use, store or divert any waters under ORS 537.130 or use**  
22 **or attempt to use any ground water under ORS 537.535 or construct or attempt to construct**  
23 **any well or other means of developing and securing ground water under ORS 537.535 (1) at**  
24 **a location where plants in the plant Cannabis family Cannabaceae are grown, if:**

25       **(1) The location described in this section is not licensed or registered under ORS**  
26 **475C.065, 475C.792 or 571.281; or**

27       **(2) The number of plants described in this section is greater than the number of**  
28 **marijuana plants or industrial hemp plants allowed under ORS 475C.005 to 475C.525, 475C.770**  
29 **to 475C.919 or 571.260 to 571.348.**

30       **SECTION 4.** **ORS 133.619 is amended to read:**

31       133.619. **(1) A warrant authorizing the installation or tracking of a mobile tracking device shall**  
32 **be executed as provided in this section.**

33       **(2) The officer need not inform any person of the existence or content of the warrant prior to**  
34 **its execution.**

35       **(3) Except as provided in subsection (4) of this section, the officer need not deliver or leave a**  
36 **receipt for things seized or observations made under authority of the warrant.**

37       **(4) Within five days of the execution of the warrant, or, in the case of an ongoing investigation,**  
38 **within such additional time as the issuing judge may allow upon application, the officer shall mail**  
39 **a receipt for things seized or observations made under authority of the warrant to the following:**

40       **(a) If the mobile tracking device has been affixed to a vehicle, to the registered owner; and**

41       **(b) To such other persons as the court may direct in the warrant.**

42       **(5) The receipt provided for in subsection (4) of this section must include the dates and times**  
43 **during which the officer monitored or attempted to monitor the mobile tracking device.**

44       **(6) A warrant authorizing the installation or tracking of a mobile tracking device shall be issued**  
45 **only when based upon the submission of an affidavit or oral statement as described in ORS 133.545,**

1 which affidavit or statement demonstrates that probable cause exists to believe that an individual  
2 is committing or is about to commit:

3 (a) A particular felony of murder, kidnapping, arson, robbery or other crime dangerous to life  
4 and punishable as a felony;

5 (b) A crime punishable as a felony arising under ORS 475.752 [*or*], 475.806 to 475.894, **475C.005**  
6 **to 475C.525 or 475C.770 to 475C.919**;

7 (c) The crime of unlawfully transporting metal property under ORS 164.857 or a crime described  
8 in ORS 165.118;

9 (d) Bribery, extortion, burglary or unauthorized use of a motor vehicle punishable as a felony;

10 (e) A violation of a criminal provision of the wildlife laws as described in ORS 496.002;

11 (f) A violation of a criminal provision of the commercial fishing laws as described in ORS  
12 506.001;

13 (g) A violation of ORS 704.020, 704.021, 704.030 or 704.065; or

14 (h) A conspiracy to commit a crime listed in this subsection.

15 (7) A court may authorize the installation or tracking of a mobile tracking device for a period  
16 not to exceed 30 days. Upon application, the court may grant one or more extensions for a period  
17 not to exceed 30 days per extension.

18 **SECTION 5.** ORS 133.726 is amended to read:

19 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a  
20 law enforcement officer is authorized to intercept an oral communication to which the officer or a  
21 person under the direct supervision of the officer is a party, without obtaining an order for the in-  
22 terception of a wire, electronic or oral communication under ORS 133.724.

23 (2) For purposes of this section and ORS 133.736, a person is a party to an oral communication  
24 if the oral communication is made in the person's immediate presence and is audible to the person  
25 regardless of whether the communication is specifically directed to the person.

26 (3) An ex parte order for intercepting an oral communication in any county of this state under  
27 this section may be issued by any judge as defined in ORS 133.525 upon written application made  
28 upon oath or affirmation of the district attorney or a deputy district attorney authorized by the  
29 district attorney for the county in which the order is sought or upon the oath or affirmation of any  
30 peace officer as defined in ORS 133.005. The application shall include:

31 (a) The name of the applicant and the applicant's authority to make the application;

32 (b) A statement demonstrating that there is probable cause to believe that a person whose oral  
33 communication is to be intercepted is engaged in committing, has committed or is about to commit  
34 a particular felony, or a misdemeanor under ORS 167.007 or 167.008, and that intercepting the oral  
35 communication will yield evidence thereof; and

36 (c) The identity of the person, if known, suspected of committing the crime and whose oral  
37 communication is to be intercepted.

38 (4) The judge may require the applicant to furnish further testimony or documentary evidence  
39 in support of the application.

40 (5) Upon examination of the application and evidence, the judge may enter an ex parte order,  
41 as requested or as modified, authorizing or approving the interception of an oral communication  
42 within the state if the judge determines on the basis of the facts submitted by the applicant that:

43 (a) There is probable cause to believe that a person is engaged in committing, has committed  
44 or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008; and

45 (b) There is probable cause to believe that the oral communication to be obtained will contain

1 evidence concerning that crime.

2 (6) An order authorizing or approving the interception of an oral communication under this  
3 section must specify:

4 (a) The identity of the person, if known, whose oral communication is to be intercepted;

5 (b) A statement identifying the particular crime to which the oral communication is expected  
6 to relate;

7 (c) The agency authorized under the order to intercept the oral communication;

8 (d) The name and office of the applicant and the signature and title of the issuing judge;

9 (e) A period of time after which the order shall expire; and

10 (f) A statement that the order authorizes only the interception of an oral communication to  
11 which a law enforcement officer or a person under the direct supervision of a law enforcement of-  
12 ficer is a party.

13 (7) An order under ORS 133.724 or this section is not required when a law enforcement officer  
14 intercepts an oral communication to which the officer or a person under the direct supervision of  
15 the officer is a party if the oral communication is made by a person whom the officer has probable  
16 cause to believe has committed, is engaged in committing or is about to commit:

17 (a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 [or], 475.906, **475C.005**  
18 **to 475C.525 or 475C.770 to 475C.919** or as a misdemeanor under ORS 167.007 or 167.008; or

19 (b) Any other crime punishable as a felony if the circumstances at the time the oral communi-  
20 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order  
21 under ORS 133.724 or this section.

22 (8) A law enforcement officer who intercepts an oral communication pursuant to this section  
23 may not intentionally fail to record and preserve the oral communication in its entirety. A law  
24 enforcement officer, or a person under the direct supervision of the officer, who is authorized under  
25 this section to intercept an oral communication is not required to exclude from the interception an  
26 oral communication made by a person for whom probable cause does not exist if the officer or the  
27 person under the officer's direct supervision is a party to the oral communication.

28 (9) A law enforcement officer may not divulge the contents of an oral communication intercepted  
29 under this section before a preliminary hearing or trial in which an oral communication is going to  
30 be introduced as evidence against a person except:

31 (a) To a superior officer or other official with whom the law enforcement officer is cooperating  
32 in the enforcement of the criminal laws of this state or the United States;

33 (b) To a magistrate;

34 (c) In a presentation to a federal or state grand jury; or

35 (d) In compliance with a court order.

36 (10) A law enforcement officer may intercept an oral communication under this section only  
37 when acting within the scope of the officer's employment and as a part of assigned duties.

38 (11) As used in this section, "law enforcement officer" means:

39 (a) An officer employed to enforce criminal laws by:

40 (A) The United States, this state or a municipal government within this state;

41 (B) A political subdivision, agency, department or bureau of the governments described in sub-  
42 paragraph (A) of this paragraph; or

43 (C) A police department established by a university under ORS 352.121 or 353.125;

44 (b) An authorized tribal police officer as defined in ORS 181A.940; or

45 (c) A regulatory specialist as defined in ORS 471.001.

1 (12) Violation of subsection (9) of this section is a Class A misdemeanor.

2 **SECTION 6.** ORS 165.663 is amended to read:

3 165.663. Any police officer may apply to the circuit court in which judicial district the targeted  
4 telephone is located for an ex parte order or extension of an order authorizing the installation and  
5 use of a pen register or a trap and trace device. The application shall:

6 (1) Be in writing under oath;

7 (2) Include the identity of the applicant and the identity of the law enforcement agency con-  
8 ducting the investigation;

9 (3) Contain a statement demonstrating that there is probable cause to believe that an individual  
10 is committing, has committed or is about to commit:

11 (a) A particular felony of murder, kidnapping, arson, robbery, bribery, extortion or other crime  
12 dangerous to life and punishable as a felony;

13 (b) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 [or], 475.906, **475C.005**  
14 **to 475C.525 or 475C.770 to 475C.919;**

15 (c) A crime under ORS 166.720 that includes as part of the pattern of racketeering activity at  
16 least one incident of conduct that constitutes a felony; or

17 (d) Any conspiracy to commit a crime described in paragraphs (a) to (c) of this subsection; and

18 (4) Contain a statement demonstrating that use of a pen register or trap and trace device will  
19 yield evidence relevant to the crime.

20 **SECTION 7.** ORS 475C.337 is amended to read:

21 475C.337. (1) Except for licensees and licensee representatives acting in accordance with ORS  
22 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, it is unlawful for any  
23 person 21 years of age or older to possess, knowingly or intentionally:

24 (a) An amount of plants in the genus Cannabis within the plant family Cannabaceae in excess  
25 of the amount allowed under ORS 475C.305 (1).

26 (b) More than two ounces of usable marijuana in a public place.

27 (c) More than eight ounces of usable marijuana.

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

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

30 (f) More than one ounce of cannabinoid extracts.

31 (g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license  
32 issued under ORS 475C.097.

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

35 (3) Unlawful possession of a marijuana item is:

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

38 (b) A Class B misdemeanor, if the amount possessed is more than two times, but not more than  
39 four times, the applicable maximum amount specified in subsection (1)(a) to (f) of this section.

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

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

43 (B) More than eight pounds of usable marijuana in a public place; or

44 (C) More than one-quarter ounce of cannabinoid extract that was not purchased from a  
45 marijuana retailer that holds a license issued under ORS 475C.097.

1       **(d) A Class B felony, if:**

2       **(A) The amount possessed is more than 32 times the applicable maximum amount speci-**  
3 **fied in subsection (1)(a), (c), (d), (e) or (f) of this section; or**

4       **(B) The violation is a marijuana offense involving reckless unlawful conduct under ORS**  
5 **475C.353 (5) or a marijuana offense involving knowing unlawful conduct under ORS 475C.353**  
6 **(6).**

7       **SECTION 8.** ORS 475C.341 is amended to read:

8       475C.341. (1) Except for licensees and licensee representatives acting in accordance with ORS  
9 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, it is unlawful for any  
10 person under 21 years of age to possess, knowingly or intentionally:

11       (a) An amount of plants in the genus Cannabis within the plant family Cannabaceae in excess  
12 of the amount allowed under ORS 475C.305 (1).

13       (b) More than two ounces of usable marijuana in a public place.

14       (c) More than eight ounces of usable marijuana.

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

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

17       (f) More than one ounce of cannabinoid extracts.

18       (g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license  
19 under ORS 475C.097.

20       (2) Except as provided in [*subsection (3)*] **subsections (3) and (4)** of this section, unlawful pos-  
21 session of a marijuana item by a person under 21 years of age is a Class A misdemeanor.

22       (3) Unlawful possession of a marijuana item by a person under 21 years of age is a Class C fel-  
23 ony, if the amount possessed is:

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

26       (b) More than eight pounds of usable marijuana in a public place; or

27       (c) More than one-quarter ounce of cannabinoid extract that was not purchased from a  
28 marijuana retailer that holds a license issued under ORS 475C.097.

29       **(4) Unlawful possession of a marijuana item by a person under 21 years of age is a Class**  
30 **B felony, if:**

31       **(a) The amount possessed is more than 32 times the applicable maximum amount speci-**  
32 **fied in subsection (1)(a), (c), (d), (e) or (f) of this section; or**

33       **(b) The violation is a marijuana offense involving reckless unlawful conduct under ORS**  
34 **475C.353 (5) or a marijuana offense involving knowing unlawful conduct under ORS 475C.353**  
35 **(6).**

36       **SECTION 9.** ORS 475C.349 is amended to read:

37       475C.349. (1) Except for licensees and licensee representatives acting in accordance with ORS  
38 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, and except for a person  
39 acting within the scope of and in compliance with ORS 475C.305, it is unlawful for any person to  
40 manufacture a marijuana item.

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

43       (3) Unlawful manufacture of a marijuana item is:

44       (a) A Class B misdemeanor, if a person 21 years of age or older unlawfully manufactures  
45 homegrown marijuana at a household and the total number of homegrown plants in the genus

1 Cannabis within the plant family Cannabaceae at the household exceeds four plants but does not  
2 exceed eight plants.

3 (b) A Class C felony, if:

4 (A) A person unlawfully manufactures marijuana and the total number of plants in the genus  
5 Cannabis within the plant family Cannabaceae exceeds 12 plants; or

6 (B) A person unlawfully manufactures a cannabinoid product or a cannabinoid concentrate and  
7 the total amount of cannabinoid products or the total amount of cannabinoid concentrates exceeds  
8 twice the applicable maximum amount specified in ORS 475C.337 (1)(d), (e) or (f).

9 (c) A Class B felony, if:

10 (A) A person unlawfully manufactures a cannabinoid extract[.];

11 **(B) The violation involves the manufacture of more than 100 marijuana plants, whether**  
12 **mature or immature; or**

13 **(C) The violation is a marijuana offense involving reckless unlawful conduct under ORS**  
14 **475C.353 (5) or a marijuana offense involving knowing unlawful conduct under ORS 475C.353**  
15 **(6).**

16 **SECTION 10.** ORS 475C.353 is amended to read:

17 475C.353. (1) Except as provided in [subsection (3)] **subsections (3), (5) and (6)** of this section,  
18 a felony under ORS 475C.337 or 475C.341 shall be classified as crime category 1 of the sentencing  
19 guidelines grid of the Oregon Criminal Justice Commission.

20 (2) Except as provided in [subsection (3)] **subsections (3), (5) and (6)** of this section, a felony  
21 under ORS 475C.345 or 475C.349 shall be classified as crime category 4 of the sentencing guidelines  
22 grid of the Oregon Criminal Justice Commission.

23 (3) Subject to subsection (4) of this section, a felony under ORS 475C.337, 475C.341, 475C.345 or  
24 475C.349 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon  
25 Criminal Justice Commission if the violation is a commercial marijuana offense. A violation is a  
26 commercial marijuana offense for purposes of this subsection if the violation was [committed in  
27 conjunction with] **accompanied by** at least three of the following factors:

28 (a) The offender delivered a marijuana item for consideration;

29 (b) The offender was in possession of \$300 or more in cash;

30 (c) The offender was unlawfully in possession of a firearm or other weapon as described in ORS  
31 166.270 (2), the offender used, attempted to use or threatened to use a deadly weapon or dangerous  
32 weapon, as those terms are defined in ORS 161.015, or the offender was in possession of a firearm  
33 or other deadly weapon or dangerous weapon for the purpose of using the deadly weapon or dan-  
34 gerous weapon;

35 (d) The offender was in possession of materials being used for the packaging of marijuana items,  
36 such as scales, wrapping or foil, other than a material used to contain the marijuana item that is  
37 the subject of the violation;

38 (e) The offender was in possession of marijuana item transaction records or customer lists;

39 (f) The offender was in possession of stolen property;

40 (g) The offender was in possession of manufacturing paraphernalia specifically designed for  
41 producing marijuana, such as recipes, precursor chemicals, laboratory equipment, lighting equip-  
42 ment, ventilating equipment or power generation equipment;

43 (h) The offender modified structures by painting, wiring, plumbing or lighting the structures to  
44 facilitate the offense;

45 (i) The offender used public lands to manufacture the marijuana item; or



1 (j) The offender constructed fortifications or took security measures that had the potential to  
2 injure persons.

3 (4) To prove that a violation is a commercial marijuana offense for purposes of subsection (3)  
4 of this section, the state must plead in the accusatory instrument at least three of the factors de-  
5 scribed in subsection (3) of this section. The state has the burden of proving each factor beyond a  
6 reasonable doubt.

7 **(5) A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349 (3)(c)(C)**  
8 **shall be classified as a crime category 6 of the sentencing guidelines grid of the Oregon**  
9 **Criminal Justice Commission if the violation constitutes a marijuana offense involving reck-**  
10 **less unlawful conduct. A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or**  
11 **475C.349 (3)(c)(C) is a marijuana offense involving reckless unlawful conduct if the person is**  
12 **aware of and consciously disregards a substantial and justifiable risk that the violation is**  
13 **accompanied by:**

14 (a) Any of the following factors:

15 (A) Abusing or threatening to abuse the law or legal process;

16 (B) Destroying, concealing, removing, confiscating or possessing an actual or purported  
17 passport or immigration document, or other actual or purported government identification  
18 document, of another person;

19 (C) Threatening to report another person to a government agency for the purpose of the  
20 other person's arrest or deportation;

21 (D) Threatening to collect an unlawful debt;

22 (E) Instilling in another person a fear that the person will withhold from the other per-  
23 son the necessities of life, including but not limited to lodging, food and clothing; or

24 (F) Withholding wages earned without lawful justification;

25 (b) The issuance of a citation to a person under ORS 654.071 for a violation of any state  
26 occupational safety or health law, regulation, rule or order, including any safety and health  
27 standards for agricultural labor housing and related facilities under the Oregon Safe Em-  
28 ployment Act; or

29 (c) Any of the following factors related to the environment:

30 (A) Discharging, placing or causing to be placed any wastes, as defined in ORS 468B.005,  
31 into the waters of this state or in a location where the wastes are likely to escape or be  
32 carried into the waters of this state;

33 (B) The unlawful use, storage, disposal, treatment or transport of hazardous waste, as  
34 defined in ORS 466.005;

35 (C) The unlawful possession, use or application of a pesticide, as defined in ORS 634.006;  
36 or

37 (D) The use of surface water or ground water in violation of ORS chapter 537.

38 **(6) A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349 (3)(c)(C)**  
39 **shall be classified as a crime category 8 of the sentencing guidelines grid of the Oregon**  
40 **Criminal Justice Commission if the violation constitutes a marijuana offense involving**  
41 **knowing unlawful conduct. A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B)**  
42 **or 475C.349 (3)(c)(C) is a marijuana offense involving knowing unlawful conduct if the person**  
43 **acts with knowledge, or with a conscious purpose to avoid knowledge, that the violation is**  
44 **accompanied by:**

45 (a) Any of the following factors:

1 (A) Abusing or threatening to abuse the law or legal process;

2 (B) Destroying, concealing, removing, confiscating or possessing an actual or purported  
3 passport or immigration document, or other actual or purported government identification  
4 document, of another person;

5 (C) Threatening to report another person to a government agency for the purpose the  
6 other person's arrest or deportation;

7 (D) Threatening to collect an unlawful debt;

8 (E) Instilling in another person a fear that the person will withhold from the other per-  
9 son the necessities of life, including but not limited to lodging, food and clothing; or

10 (F) Withholding wages earned without lawful justification;

11 (b) The issuance of a citation to a person under ORS 654.071 for a violation of any state  
12 occupational safety or health law, regulation, rule or order, including any safety and health  
13 standards for agricultural labor housing and related facilities under the Oregon Safe Em-  
14 ployment Act; or

15 (c) Any of the following factors related to the environment:

16 (A) Discharging, placing or causing to be placed any wastes, as defined in ORS 468B.005,  
17 into the waters of this state or in a location where the wastes are likely to escape or be  
18 carried into the waters of this state;

19 (B) The unlawful use, storage, disposal, treatment or transport of hazardous waste, as  
20 defined in ORS 466.005;

21 (C) The unlawful possession, use or application of a pesticide, as defined in ORS 634.006;  
22 or

23 (D) The use of surface water or ground water in violation of ORS chapter 537.

24 **SECTION 11.** ORS 536.900, as amended by section 5, chapter 52, Oregon Laws 2022, is amended  
25 to read:

26 536.900. (1) In addition to any other liability or penalty provided by law, the Water Resources  
27 Commission may impose a civil penalty on a person for violation of:

28 (a) A term or condition of a permit, certificate or license issued under ORS chapters 536 to  
29 543A.

30 (b) ORS 537.130 or 537.535.

31 (c) ORS 537.545 (5) or a rule described in ORS 537.545 (7).

32 (d) A commission rule or order that pertains to well maintenance.

33 (e) ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435, 540.440, 540.570 (5),  
34 540.710, 540.720 and 540.730 or rules adopted under ORS 540.145.

35 (f) Section 2 or 4 (2), chapter 52, Oregon Laws 2022.

36 (g) **Section 3 of this 2023 Act.**

37 (2) A civil penalty may be imposed under this section for each day of violation of ORS 537.130,  
38 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710, 540.720 or 540.730.

39 (3) In the event the petitioner knowingly misrepresents the map and petition required in ORS  
40 541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established  
41 by the commission. In addition, the petition and map shall be amended to correct the error at the  
42 petitioner's cost. Affected users shall be given notice as provided in ORS 541.329 (5).

43 (4) A civil penalty may not be imposed until the commission prescribes a reasonable time to  
44 eliminate the violation. The commission shall notify the violator of the time allowed to correct a  
45 violation within 10 business days after the commission first becomes aware of the violation.

1 (5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the  
2 use of water under ORS 540.150 may not be considered a violation under subsection (1) of this sec-  
3 tion.

4 **(6) The commission may impose a civil penalty of not more than \$2,000 per occurrence**  
5 **for a violation described in subsection (1)(g) of this section.**

6 **SECTION 12.** ORS 537.990, as amended by section 6, chapter 52, Oregon Laws 2022, is amended  
7 to read:

8 537.990. (1) Violation of ORS 537.130 (2) is a Class B misdemeanor.

9 (2) Any person who willfully diverts or uses water to the detriment of others without compliance  
10 with law shall be punished as provided in subsection (1) of this section. The possession or use of  
11 water, except when a right of use is acquired in accordance with law, shall be prima facie evidence  
12 of the guilt of the person using it.

13 (3) Violation of ORS 537.535 (1) or 537.747 is a Class B misdemeanor.

14 (4) Violation of section 4 (2), chapter 52, Oregon Laws 2022, **or section 3 of this 2023 Act** is  
15 a Class A misdemeanor.

16 (5)(a) Violation of section 4 (1), chapter 52, Oregon Laws 2022, with criminal negligence, as de-  
17 fined in ORS 161.085, is a Class A misdemeanor.

18 (b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this subsection  
19 is \$25,000 if the person:

20 (A) Owns a water hauling business; or

21 (B) Owns, operates or is responsible for the grow site to which the water was hauled or ar-  
22 ranged to be hauled.

23 (6)(a) Notwithstanding subsections (1) to (3) of this section, violation of ORS 537.130 (2) or  
24 537.535 that concerns the use of water at a grow site for a crop of plants in the plant Cannabis  
25 family Cannabaceae is a Class A misdemeanor if:

26 (A) The grow site is not registered or licensed under ORS 475C.065, 475C.792 or 571.281; and

27 (B) The crop of plants is in an amount that is not allowed under state law.

28 (b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this subsection  
29 is \$25,000.

30 **SECTION 13.** Section 45, chapter 542, Oregon Laws 2021, is amended to read:

31 **Sec. 45.** Sections 40 and 41a to 44, **chapter 542, Oregon Laws 2021**, [of this 2021 Act] are re-  
32 pealed on January 1, 2024.

33 **SECTION 14.** Sections 2 and 3 of this 2023 Act and the amendments to ORS 133.619,  
34 133.726, 165.663, 475C.337, 475C.341, 475C.349, 475C.353, 536.900 and 537.990 and section 45,  
35 chapter 542, Oregon Laws 2021, by sections 4 to 13 of this 2023 Act apply to conduct occurring  
36 on or after the effective date of this 2023 Act.

37 **SECTION 15.** Section 16 of this 2023 Act is added to and made a part of ORS 475C.005 to  
38 475C.525.

39 **SECTION 16.** (1) The Oregon Liquor and Cannabis Commission may not issue a marijuana  
40 production license under ORS 475C.065 unless the applicant submits with the application a  
41 statement accurately identifying the legal address and owner of the premises to be licensed  
42 and the requirements of subsections (2) and (3) of this section are met.

43 (2) The commission shall independently verify the information provided under subsection  
44 (1) of this section regarding the ownership of the premises with the county in which the  
45 premises to be licensed under ORS 475C.065 is located.

1       **(3) If the applicant described in subsection (1) of this section is not the owner of the**  
2 **premises to be licensed under ORS 475C.065, and the commission is able to verify ownership**  
3 **of the premises with the information submitted by the applicant, the commission shall send**  
4 **by certified mail a form to the owner of the premises:**

5       **(a) Informing the owner that the premises is intended to be licensed under ORS 475C.065;**

6       **(b) On which the owner, if the owner wishes to consent to the use of the premises for**  
7 **the purpose of producing marijuana, must provide the owner's written signature, witnessed**  
8 **by a notary public, confirming ownership of the premises and consenting to the use of the**  
9 **premises for the purpose of producing marijuana; and**

10       **(c) Directing the owner to return the signed and witnessed form to the commission.**

11       **(4) The commission shall cancel an application for a license under ORS 475C.065 if the**  
12 **commission:**

13       **(a) Is not able to verify ownership of the premises described in subsection (1) of this**  
14 **section; or**

15       **(b) Does not receive from the owner the signed and witnessed form described in sub-**  
16 **section (3) of this section.**

17       **(5) The commission may adopt rules to carry out this section.**

18       **SECTION 17.** ORS 475C.037 is amended to read:

19       475C.037. (1) The Oregon Liquor and Cannabis Commission may not license an applicant under  
20 the provisions of ORS 475C.005 to 475C.525 or 475C.548 if the applicant is under 21 years of age.

21       (2) The commission may refuse to issue a license or may issue a restricted license to an appli-  
22 cant under the provisions of ORS 475C.005 to 475C.525 if the commission makes a finding that the  
23 applicant:

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

26       (b) Has made false statements to the commission.

27       (c) Is incompetent or physically unable to carry on the management of the establishment pro-  
28 posed to be licensed.

29       (d) Has been convicted of violating a federal law, state law or local ordinance if the conviction  
30 is substantially related to the fitness and ability of the applicant to lawfully carry out activities  
31 under the license.

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

33       (f) Does not have a good record of compliance with ORS 475C.005 to 475C.525 or any rule  
34 adopted under ORS 475C.005 to 475C.525.

35       (g) **Except as provided in section 16 of this 2023 Act**, is not the legitimate owner of the  
36 premises proposed to be licensed, or has not disclosed that other persons have ownership interests  
37 in the premises proposed to be licensed.

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

40       (i) Is unable to understand the laws of this state relating to marijuana items or the rules adopted  
41 under ORS 475C.005 to 475C.525.

42       (3) Notwithstanding subsection (2)(d) of this section, in determining whether to issue a license  
43 or a restricted license to an applicant, the commission may not consider the prior conviction of the  
44 applicant or any owner, director, officer, manager, employee, agent or other representative of the  
45 applicant for:

1 (a) The manufacture of marijuana, if:

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

3 (B) The person has not been convicted more than once for the manufacture or delivery of  
4 marijuana;

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

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

7 (B) The person has not been convicted more than once for the manufacture or delivery of  
8 marijuana; or

9 (c) The possession of marijuana.

10 **SECTION 18.** ORS 475C.065 is amended to read:

11 475C.065. (1) The production of marijuana is subject to regulation by the Oregon Liquor and  
12 Cannabis Commission.

13 (2) A marijuana producer must have a production license issued by the commission for the  
14 premises at which the marijuana is produced. To hold a production license issued under this section,  
15 a marijuana producer:

16 (a) Must apply for a license in the manner described in ORS 475C.033;

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

18 (c) Must meet the requirements of any rule adopted by the commission under subsections (3) and  
19 (4) of this section.

20 *[(3)(a) If the applicant is not the owner of the premises at which the marijuana is to be produced,*  
21 *the applicant shall submit to the commission signed informed consent from the owner of the premises*  
22 *to produce marijuana at the premises.]*

23 *[(b) The commission may adopt rules regarding the informed consent described in this*  
24 *subsection.]*

25 **(3) The applicant shall, with the application submitted to the commission, provide the**  
26 **information described under and meet the requirements of section 16 of this 2023 Act.**

27 (4) The commission shall adopt rules that:

28 (a) Require a marijuana producer to annually renew a license issued under this section;

29 (b) Establish application, licensure and renewal of licensure fees for marijuana producers;

30 (c) Require marijuana produced by marijuana producers to be tested in accordance with ORS  
31 475C.544;

32 (d) Assist the viability of marijuana producers that are independently owned and operated and  
33 that are limited in size and revenue with respect to other marijuana producers, by minimizing bar-  
34 riers to entry into the regulated system and by expanding, to the extent practicable, transportation  
35 options that will support their access to the retail market;

36 (e) Allow a marijuana producer registered under ORS 475C.137 to produce marijuana for medical  
37 purposes in the same manner that rules adopted under ORS 475C.005 to 475C.525 allow a marijuana  
38 producer to produce marijuana for nonmedical purposes, excepting those circumstances where dif-  
39 ferentiating between the production of marijuana for medical purposes and the production of  
40 marijuana for nonmedical purposes is necessary to protect the public health and safety;

41 (f) Require marijuana producers to submit, at the time of applying for or renewing a license  
42 under ORS 475C.033, a report describing the applicant's or licensee's electrical or water usage;

43 (g) Require a marijuana producer to meet any public health and safety standards and industry  
44 best practices established by the commission by rule related to the production of marijuana or the  
45 propagation of immature marijuana plants and marijuana seeds; and

1 (h) Support marijuana plant diversity by allowing a qualified marijuana producer to receive  
2 marijuana seeds from any source in this state, but not more than a total of 200 marijuana seeds per  
3 month from all sources combined.

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

5 (a) May not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost  
6 of administering ORS 475C.005 to 475C.525;

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

9 (c) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS  
10 475C.297.

11 **SECTION 19.** Section 20 of this 2023 Act is added to and made a part of ORS 475C.770 to  
12 475C.919.

13 **SECTION 20.** (1) The Oregon Health Authority may not issue a marijuana grow site reg-  
14 istration under ORS 475C.792 unless the applicant submits with the application a statement  
15 accurately identifying the legal address and owner of the premises to be registered and the  
16 requirements of subsections (2) and (3) of this section are met.

17 (2) The authority shall independently verify the information provided under subsection  
18 (1) of this section regarding the ownership of the premises with the county in which the  
19 premises to be registered under ORS 475C.792 is located.

20 (3) If the applicant described in subsection (1) of this section is not the owner of the  
21 premises to be licensed under ORS 475C.792, and the authority is able to verify ownership  
22 of the premises with the information submitted by the applicant, the authority shall send by  
23 certified mail a form to the owner of the premises:

24 (a) Informing the owner that the premises is intended to be licensed under ORS 475C.792;

25 (b) On which the owner, if the owner wishes to consent to the use of the premises for  
26 the purpose of a marijuana grow site, must provide the owner's written signature, witnessed  
27 by a notary public, confirming ownership of the premises and consenting to the use of the  
28 premises for the purpose of a marijuana grow site; and

29 (c) Directing the owner to return the signed and witnessed form to the authority.

30 (4) The authority shall cancel an application for a registration under ORS 475C.792 if the  
31 authority:

32 (a) Is not able to verify ownership of the premises described in subsection (1) of this  
33 section; or

34 (b) Does not receive from the owner the signed and witnessed form described in sub-  
35 section (3) of this section.

36 (5) The authority may adopt rules to carry out this section.

37 **SECTION 21.** ORS 475C.792 is amended to read:

38 475C.792. (1)(a) The Oregon Health Authority shall establish by rule a marijuana grow site  
39 registration system to track and regulate the production of marijuana by a registry identification  
40 cardholder or a person designated by the registry identification cardholder to produce marijuana for  
41 the registry identification cardholder.

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

44 (c) Paragraph (b) of this subsection does not apply to the production of marijuana as provided  
45 in ORS 475C.005 to 475C.525 or as otherwise provided for by the statutory laws of this state.

1 (2) Rules adopted under this section must require an applicant for a registry identification card,  
2 or a registry identification cardholder who produces marijuana or who designates another person  
3 to produce marijuana, to submit an application to the authority containing the following information  
4 at the time of making an application under ORS 475C.783 (2), renewing a registry identification card  
5 under ORS 475C.783 (6)(b), or notifying the authority of a change under ORS 475C.783 (6)(a):

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

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

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

11 **(c) The information required under section 20 of this 2023 Act;**

12 (d) The address of the marijuana grow site; and

13 (e) Any other information that the authority considers necessary to track the production of  
14 marijuana under ORS 475C.770 to 475C.919.

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

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

21 (c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to  
22 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may  
23 not act as or be designated a person responsible for a marijuana grow site.

24 (4) Subject to subsection (11) of this section, the authority shall issue a marijuana grow site  
25 registration card if the requirements of subsections (2) and (3) of this section **and section 20 of this**  
26 **2023 Act** are met.

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

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

31 (7)(a) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana as-  
32 sociated with the production of marijuana for a registry identification cardholder by a person re-  
33 sponsible for a marijuana grow site are the property of the registry identification cardholder.

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

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

43 (d) All seeds, immature marijuana plants and usable marijuana associated with the production  
44 of marijuana for a registry identification cardholder by a person responsible for a marijuana grow  
45 site must be transferred to a medical marijuana dispensary upon request of the registry identifica-

1 tion cardholder. For purposes of this paragraph, a request to transfer seeds, immature marijuana  
2 plants or usable marijuana constitutes an assignment of the right to possess the seeds, immature  
3 marijuana plants or usable marijuana.

4 (e) Information related to transfers made under this subsection must be submitted to the au-  
5 thority in the manner required by ORS 475C.795.

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

9 (9) The authority may inspect:

10 (a) The marijuana grow site of a person designated to produce marijuana by a registry identifi-  
11 cation cardholder to ensure compliance with this section and ORS 475C.795 and 475C.806 and any  
12 rule adopted under this section and ORS 475C.795 and 475C.806; and

13 (b) The records of the marijuana grow site of a person designated to produce marijuana by a  
14 registry identification cardholder to ensure compliance with this section and ORS 475C.795 and any  
15 rule adopted under this section and ORS 475C.795.

16 (10) The authority may refuse to register a registry identification cardholder or a designee under  
17 this section or may suspend or revoke the registration of a person responsible for a marijuana grow  
18 site if the authority determines that the applicant or the person responsible for a marijuana grow  
19 site violated a provision of ORS 475C.770 to 475C.919, a rule adopted under ORS 475C.770 to  
20 475C.919 or an ordinance adopted pursuant to ORS 475C.827.

21 (11) The authority may require a person responsible for a marijuana grow site, prior to issuing  
22 a marijuana grow site registration card under subsection (4) of this section, to pay a fee reasonably  
23 calculated to pay costs incurred under this section and ORS 475C.795 and 475C.856.

24 **SECTION 22. (1) Sections 16 and 20 of this 2023 Act and the amendments to ORS 475C.037,**  
25 **475C.065 and 475C.792 by sections 17, 18 and 21 of this 2023 Act become operative on January**  
26 **1, 2024.**

27 **(2) The Oregon Health Authority and the Oregon Liquor and Cannabis Commission may**  
28 **take any action before the operative date specified in subsection (1) of this section that is**  
29 **necessary to enable the authority and the commission to exercise, on and after the operative**  
30 **date specified in subsection (1) of this section, all of the duties, functions and powers con-**  
31 **ferred on the authority and the commission by sections 16 and 20 of this 2023 Act and the**  
32 **amendments to ORS 475C.037, 475C.065 and 475C.792 by sections 17, 18 and 21 of this 2023 Act.**

33 **SECTION 23. This 2023 Act being necessary for the immediate preservation of the public**  
34 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**  
35 **on its passage.**

36