

475C.354 Classification of felony under ORS 475C.337, 475C.341, 475C.346 and 475C.349. (1) Except as provided in subsection (3) of this section, a felony under ORS 475C.337 or 475C.341 shall be classified as crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(2) Except as provided in subsection (3) of this section, a felony under ORS 475C.346 or 475C.349 shall be classified as crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(3) Subject to subsection (4) of this section, a felony under ORS 475C.337, 475C.341, 475C.346 or 475C.349 shall be classified as crime category ~~8~~ **6** of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation is a commercial marijuana offense. A violation is a commercial marijuana offense for purposes of this subsection if the violation was committed in conjunction with at least three of the following factors:

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

~~(b)~~ (a) The offender was in possession of ~~\$300~~ **\$10,000.00** or more in cash;

~~(c)~~ (b) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), the offender used, attempted to use or threatened to use a deadly weapon or dangerous weapon, as those terms are defined in ORS 161.015, or the offender was in possession of a firearm or other deadly weapon or dangerous weapon for the purpose of using the deadly weapon or dangerous weapon;

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

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

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

~~(g)~~ (e) The offender was in possession of manufacturing paraphernalia specifically designed for producing marijuana, such as recipes, ~~precursor chemicals, laboratory equipment,~~ lighting equipment, ventilating equipment or power generation equipment;

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

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

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

(4) To prove that a violation is a commercial marijuana offense for purposes of subsection (3) of this section, the state must plead in the accusatory instrument at least three of the factors described in subsection (3) of this section. The state has the burden of proving each factor beyond a reasonable doubt. [2017 c.21 §7]