

SB 1555 STAFF MEASURE SUMMARY

Joint Committee On Addiction and Community Safety Response

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Meeting Dates: 2/7

WHAT THE MEASURE DOES:

Creation of New Drug Offenses (Sections 1 and 2)

Creates the Class A misdemeanor crime of using a controlled substance in a public place. Defines public place for purposes of measure.

Drug Encapsulating, Tableting or Counterfeiting Equipment (Sections 3-5)

Establishes as a Class C felony for any person to possess, purchase, make, deliver, or sell a tableting machine, an encapsulating machine or controlled substance counterfeiting material while having reasonable cause to believe that the machine or materials will be used to manufacture a controlled or counterfeit substance. States that the crime shall be treated as a Category 6 on the sentencing guidelines grid for purposing of sentencing. Defines relevant terms. Removes provision from ORS 475.916 relating to possession of materials made redundant by sections 28 and 29 of this measure.

Recriminalizing Drug Possession and Repealing Class E Violation Provisions (Sections 6-26)

Increases penalties for possession of a controlled substance from a Class E violation to a Class C misdemeanor and repeals provisions relating to possession of a controlled substance as a Class E violation.

Designated Drug Related and Property Misdemeanors (Section 27)

Amends ORS 423.478. Directs the Department of Corrections (DOC) to assume responsibility for community-based supervision for offenders convicted of designated property misdemeanors. Expands definition of “designated drug-related misdemeanor” to include unlawful possession of a controlled substance and unlawful use of a controlled substance in a public place under section 25 of this act. Defines “designated property misdemeanor” for purposes of this act.

Mandatory Drug Treatment (Section 28)

Provides that a person charged with or convicted of a designated drug-related or property misdemeanor be ordered, as condition of probation or any conditional discharge agreement, to be evaluated for drug dependence and if treatment for drug dependence is recommended, the person be directed to complete the course of treatment as directed by the evaluator at no cost to the person.

Conditional Discharge Diversion (Section 29)

Requires a district attorney to offer any person charged with a designated drug-related misdemeanor to enter conditional discharge if certain criteria are met. Requires entry into diversion within 30 days unless otherwise agreed and directs the court to defer further proceedings and place the person on probation. Establishes terms authorized to be included in a conditional discharge agreement and certain rights a defendant must waive.

Expungement of Convictions (Section 30)

Requires a court overseeing a probationary sentence for a designated drug-related misdemeanor requiring completion of a substance abuse evaluation or treatment program to periodically review the person’s compliance with probation. Directs the court to enter an order setting aside the conviction if, at the time of completing a

SB 1555 STAFF MEASURE SUMMARY

period review, the court finds that the person has successfully completed all conditions of probation.

Alcohol and Drug Policy Commission (Section 31)

Defines relevant terms for provision. Directs the Alcohol and Drug Policy Commission (Commission) to provide grants and funding, using the Drug Treatment and Recovery Services Fund, to counties and tribes to support evidence-informed and evidence-based services specified by measure. Further directs the Commission to provide grants and funding, as prioritized by the measure, to cities and counties to support enforcement related harm reduction services.

Transfer of Duties from Oregon Health Authority and Oversight and Accountability Council (Sections 32-47)

Amends ORS 430.384. Appropriates moneys in the Drug Treatment and Recovery Services Fund to the Alcohol and Drug Policy Commission to be used as directed in statute and by this measure. Transfers existing responsibilities for fund management and distribution to the Commission and expands grant and funding distribution authority to include providing grants and funding as described by section 31 of this act.

Increased Penalties for Certain Drug Crimes (Sections 48)

Requires a court to sentence a person convicted of unlawful delivery or attempted delivery or manufacture of a controlled substance to at least 36 months incarceration if the person has been previously convicted of unlawful delivery or attempted delivery or manufacture of a controlled substance within the previous five years.

Taylor's Law (Sections 49-52)

Provides that unlawful delivery of a controlled substances is a Class A felony if the use of the controlled substance was a factor in causing the death of another person. States that each person who unlawfully delivers a controlled substance that results in the death of another person as described is criminally liable under this provision. Requires a court to sentence a person convicted of unlawful delivery of a controlled substance resulting in the death of another person to a term of incarceration of 58 months to 130 months and use a Crime Category 10 of the sentencing guidelines grid when sentencing. Prohibits the court from granting a downward departure of the above sentence except in circumstances provided in measure. Defines relevant terms.

Restoration of State v. Boyd Delivery Definition (Section 53)

Expands the definition of "deliver" or "delivery" to include the possession of a controlled substance with intent to transfer to another person.

Local Authority (Section 54)

Prohibits a political subdivision in this state from adopting or enforcing local laws or regulations from making it an offense, violation, or the subject of criminal or civil penalties of any kind to use or be under the influence of a controlled substance.

Emergency Clause (Section 57)

Declares an emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In November 2020, Oregon voters passed Ballot Measure 110, also known as the Drug Addiction and Treatment Recovery Act, approving two shifts in how the state deals with the use of illegal drugs. First, the measure reduces penalties for drug possession, making Oregon the first state to decriminalize the personal possession of illegal drugs. Secondly, any savings achieved from the cost of enforcing criminal drug possession penalties are combined with marijuana sales revenue to fund a new drug addiction treatment and recovery grant program. Senate Bill 755 (2021) modified some of the requirements of Ballot Measure 110, including establishing Behavioral Health Resource Networks (BHRNs), which are a group of organizations that partner to provide substance use services free of charge to individuals seeking care. The measure required a BHRN to be established in each county and tribal area in the state.