



Community Development Department

Planning, Building Safety, Environmental Soils, Code Enforcement
PO Box 6005, Bend, Oregon 97708-6005
117 NW Lafayette Avenue
www.deschutes.org/cd

Deschutes County Marijuana Advisory Committee

Meeting #1: Wednesday, February 10, 2016, 4:30-8:00 pm
Barnes and Sawyer Rooms, Deschutes Services Building, 1300 NW Wall Street, Bend

NOTICE: A QUORUM OF THE BOARD OF COUNTY COMMISSIONS MAY BE IN ATTENDANCE AT THIS MEETING.

TIME	TOPIC	DESIRED OUTCOME
4:30 (:30)	Pre-meeting meet and greet for MAC members (DeArmond Room)	
5:00 (:15)	1. Welcome from Deschutes County: Tammy Baney, Tony DeBone, and Alan Unger <i>See Packet: Charter</i> <ul style="list-style-type: none">Purpose and desired outcomes of the Marijuana Advisory Committee (MAC)	Welcome attendees, establish the purpose of the MAC
5:15 (:05)	2. Overview of agenda: Mary Orton, The Mary Orton Company, LLC (facilitator)	Clarity on the agenda and housekeeping items.
5:20 (:30)	3. Check-in from Advisory Group members <i>See Packet: Roster of members</i> Two minutes each: <ul style="list-style-type: none">Name, where you live, why you chose to serve on the MACWho inspires you and how are you a bit like them?Assuming the MAC is successful, what do you want to be able to say you accomplished?	List of best hopes for the group.
5:50 (:10)	4. Introductions of County staff and others serving as MAC resources <i>See packet: Additional Resources for the MAC</i>	Understanding resources available to the MAC.
6:00 (:15)	5. Public meeting laws: County Legal Counsel <i>See packet: Meeting Laws / Quorum</i>	Common understanding of the law with regard to meetings of the MAC.

TIME	TOPIC	DESIRED OUTCOME
6:15 (:20)	6. Ground Rules <i>See packet: Draft Ground Rules</i> <ul style="list-style-type: none"> ▪ Discussion and agreement on ground rules ▪ Discussion and agreement on definition of consensus 	Agreement on operating rules and definition of consensus.
6:35 (:10)	Break	
6:45 (:15)	7. Schedule of meetings and desired outcomes of each: County Planning Staff <i>See packet: Draft Schedule of Meetings</i>	Agreement on schedule.
7:00 (:35)	8. Background and Review of Planning Commission recommendations <i>See packet: Planning Commission Matrix and Memorandum Summarizing the PC Matrix</i> <ul style="list-style-type: none"> ▪ MAC members will have an opportunity to suggest additional issues to be addressed by the MAC 	Understanding of PC recommendations and MAC members' additional issues
7:35 (:15)	9. Public Comments Members of the public are welcome at every MAC meeting. There will be a short time at each meeting set aside for verbal public comment. Each person's time will be limited to allow time for everyone who wishes to speak. In addition, written comments will be accepted at any time, and will be posted to the County's website, where all MAC members will be expected to read them.	Opportunity to hear from members of the public who are present.
7:50 (:10)	10. Next steps <ul style="list-style-type: none"> ▪ Agenda and date for next meeting: Wednesday, February 17, 4-7 pm, Barnes and Sawyer Rooms ▪ Meeting evaluation 	Agreement on next steps, continual improvement
8:00	11. Wrap up and Adjourn	

NOTE: Items included in the packet can be located at:
<http://www.deschutes.org/marijuana>

Deschutes County encourages persons with disabilities to participate in all programs and activities.

This event/location is accessible to people with disabilities.

If you need accommodations to make participation possible, please call the ADA Coordinator at (541) 617-4747.

MARIJUANA ADVISORY COMMITTEE (MAC) CHARTER / RESPONSIBILITY

The MAC will:

1. Develop and recommend reasonable time, place and manner land use regulations intended to mitigate the impacts of medical and recreational marijuana uses to the Board of County Commissioners (BOCC). These regulations could address sight, sound, smell, size/scale, location, security, and other impacts associated with marijuana land uses if the BOCC or voters rescind the opt-out ordinance in its entirety or in part. The BOCC expects the MAC to:
 - a. Consider the Planning Commission's recommendations.
 - b. Take a balanced and respectful approach as a member of a diverse committee with strong opinions on all sides of this important issue.
2. Review regulations adopted by other jurisdictions including legal challenges, and State Legislative action to gain a better understanding on interpretations of "reasonable regulations."
3. Comply with Oregon Public Meetings Law (information will be provided to CAC members at the first meeting) including publishing of meeting materials and opening the meetings for the public and media to attend.

The MAC will not:

1. Discuss or recommend whether the BOCC should rescind or maintain the opt-out ordinance.
2. Address moral, social, economic, public health, or similar issues.
3. Advocate for or direct the County to commission studies of water, energy, economics, affordable housing, or any other issues.

Deschutes County Marijuana Advisory Committee Roster

Alison Hohengarten

Andrew Anderson

Glenn Kotara

Hunter Neubauer

Josh Rodriguez

Lance Dyer

Larry Fulkerson

Lindsey Pate

Liz Lotochinski

Matt Cyrus

Sam Davis

Steve Swisher-PC Chair

Tim Elliot

Additional Resources for the MAC

Organization	Representative	E-Mail	Telephone
City Staff	Jon Skidmore (Bend)	jskidmore@bendoregon.gov	541-693-2175
	Rick Allen (La Pine)	rlallen@ci.la-pine.or.us	541-536-1432
County Planning	Nick Lelack	Nick.lelack@deschutes.org	541-385-1708
	Peter Gutowsky	Peter.gutowsky@deschutes.org	541-385-1709
	Matt Martin	Matt.martin@deschutes.org	541-330-4620
	Sher Buckner	Sher.buckner@deschutes.org	541-617-4736
	Randy Scheid	Randy.scheid@deschutes.org	541-317-3137
County Building	Randy Scheid	Randy.scheid@deschutes.org	541-317-3137
County Legal Department	David Doyle	David.doyle@deschutes.org	541-388-6625
County Code Enforcement	Lori Furlong	Lori.furlong@deschutes.org	541-317-3122
	John Griley	John.griley@deschutes.org	541-617-4708
Deschutes County Sheriff's Office	Shane Nelson	Shane.nelson@deschutes.org	541-317-3118
Irrigation Districts	Shawn Gerdes (Arnold)	aidist@bendbroadband.com	541-382-7664
	Craig Horrell (Vice Chair DBBC/COID)	chorrell@coid.org	541-548-6047
	Kenneth Reick (TID)	staff@tumalo.org	541-382-3053
	Jer Camarata (Swalley)	jer@swalley.com	541-388-0658
	Marc Thalacker (Three Sisters)	manager@tsidweb.org	541-549-8815
	Tom Fay (Bend Rural Fire #2)	dcrfpd2@dcrfpd2.com	541-318-0459
Fire Districts	Tim Moor (Redmond Fire Chief)	Tim.Moor@redmondfireandrescue.org	541-504-5014
	Bob Kathman (Alfalfa Fire)-not available	-	541-760-0216
	Thad Olsen (Cloverdale Fire)- not available	-	541-389-2345
	Roger Johnson (Sisters/CS Chief)	rjohnson@sistersfire.com	541-549-0771
	Mike Supkis (La Pine Chief)	info@lapinefire.org	541-536-2935
	Kyle Gorman	Kyle.g.gorman@state.or.us	541-306-6885
Oregon Water Resource Department	Jeremy Giffin	Jeremy.t.giffin@wrđ.state.or.us	541-306-6885
	Jeff Beaman (CEC Mmbr Services) Out 2/8		541-548-2144
Utility Providers	Dave Schneider (MidState GM/CEO)	dschneider@midstateelectric.coop	541-536-7282
	Pacific Power	Publicsafety@pacificpower.net	

Protecting the public's right to know

A QUICK REFERENCE GUIDE TO OREGON'S PUBLIC MEETINGS LAW

For local and state officials, members
of Oregon boards and commissions, citizens,
and non-profit groups

This guide is published as a public service by
Open Oregon: a Freedom of information Coalition
and the Oregon Attorney General's office.



A Time Saving Reference

This guide is brought to you free of charge as a joint project between Open Oregon: A Freedom of Information Coalition and Oregon Attorney General Hardy Myers. Funding for this booklet came from the National Freedom of Information Coalition through a grant from the John S. and James L. Knight Foundation.

How to Use This Guide

This summary is intended as a quick reference to the Oregon Public Meetings Law. The entire law may be found in Oregon Revised Statutes 192.610 to 192.690. Additional information may be obtained by sending an e-mail request to info@open-oregon.com or visiting www.open-oregon.com

For a comprehensive analysis of the law, refer to the latest edition of the Attorney General's Public Records and Meetings Manual, available for a nominal fee by calling (503) 378-2992 or writing to Department of Justice, Administrative Services, 1162 Court Street NE, Salem, Oregon 97301-4096.

What is Open Oregon?

Open Oregon: A Freedom of Information Coalition is a non-profit educational and charitable organization with a single purpose: to assist and educate the general public, students, educators, public officials, media and legal professional to understand and exercise:

- Their rights to open government.
- Their rights and responsibilities under the Oregon public meetings and records laws.
- Their rights under the federal Freedom of Information Act.

Open Oregon is a 501(c)(3) non-profit corporation.

The Spirit of Oregon's Public Meetings Law

The Value of Openness

Understanding the letter of the Public Meetings Law is critical. Equally important is understanding and committing to the spirit of that law. Public bodies should approach the law with openness in mind. Open meetings help citizens understand decisions and build trust in government. It is better to comply with the spirit of the law and keep deliberations open.

*“Government accountability depends
on an open and accessible process.”*

•

Hardy Myers

Oregon Attorney General

“Public bodies must conduct business
in public - it’s really that simple.”

•

Bill Bradbury

Oregon Secretary of State
Honorary Co-Chair, Open Oregon

“Oregon needs to protect its tradition
of openness.”

•

Dave Frohnmayr

President, University of Oregon
Honorary Co-Chair, Open Oregon

Oregon's Public Meetings Law

“Open government” or “sunshine” laws originally were enacted nationwide in the early 1970s because of growing public unhappiness with government secrecy. As a result, every state and the District of Columbia enacted laws requiring government to conduct its business openly, rather than behind closed doors.

Open government laws benefit both government and the public. Citizens gain by having access to the process of deliberation - enabling them to view their government at work and to influence its deliberations. Government officials gain credibility by permitting citizens to observe their information-gathering and decision-making processes. Such understanding leads to greater trust in government by its citizens. Conversely, officials who attempt to keep their deliberations hidden from public scrutiny create cynicism, erode public trust and discourage involvement.

Policy

Oregon's Public Meetings Law was enacted in 1973 to make sure that all meetings of governing bodies covered by the law are open to the public. This includes meetings called just to gather information for subsequent decisions or recommendations.

The law also requires that the public be given notice of the time and place of meetings and that meetings be accessible to everyone, including persons with disabilities.

The Public Meetings Law guarantees the public the right to view government meetings, but not necessarily to speak at them. Governing bodies set their own rules for citizen participation and public comment.

Who is covered?

Because questions often arise about what groups must comply with the public-meetings law, it is useful to look at the definitions in the law. The law says that any “governing body” of a “public body” is required to comply. It offers these definitions:

- A **“public body”** is any state, regional, or local governmental board, department, commission, council, bureau, committee, subcommittee, or advisory group created by the state constitution, statute, administrative rule, order, intergovernmental agreement, bylaw or other official act.
- A **“governing body”** is two or more members of a public body who have the authority to make decisions for or recommendations to a public body on policy or administration. A group without power of decision is a governing body when authorized to make recommendations to a public body, but not when the recommendations go to individual public officials.

Example

- *A school board must meet in public.*
- *So must most advisory committees that the school board creates, such as a budget committee.*
- *But if the school board chair asks several business leaders to meet with him to discuss future building needs, that meeting may be held in private.*

Private bodies, such as non-profit corporations, do not have to comply with the public-meetings law, even if they receive public funds, contract with governmental bodies or perform public services.

Example

- *A school district contracts with Regence BlueCross BlueShield of Oregon to provide health insurance for district employees. The BlueCross BlueShield board of directors is not required to meet in public.*

Public agencies contracting with private bodies may require a private body to comply with the law for pertinent meetings. Federal agencies are not subject to Oregon's Public Meetings Law.

What is a Public Meeting?

A public meeting is the convening of any governing body for which a quorum is required to make or deliberate toward a decision on any matter, or to gather information. Decisions must be made in public, and secret ballots are prohibited. Quorum requirements may vary among governing bodies.

Example

- *A county commission's goal-setting retreat is a public meeting if a quorum is present and they discuss official business.*
- *A training session for the commissioners is not a public meeting, unless a quorum is present and the commissioners discuss official business.*
- *A staff meeting absent a quorum of commissioners, whether called by a single commissioner or a non-elected official, is not a public meeting.*

Meetings accomplished by telephone conference calls or other electronic means are public meetings. The governing body must provide public notice, as well as a location where the public may listen to or observe the meeting.

Governing bodies must hold their meetings within the geographic boundaries of their jurisdiction. However, a governing body may meet elsewhere if there is an actual emergency requiring immediate action or to hold a training session, when no deliberation toward a decision is involved.

Example

- *A library board is free to rotate meetings at different libraries in its district, but it may not meet outside its district.*

Federal and state law requires that meetings be held in places accessible to individuals with mobility and other impairments.

What is Exempt from the Law?

On-site inspections, staff meetings and gatherings of associations to which a public body or its members belong are not considered public meetings. Chance social gatherings are not considered meetings as long as no official business is discussed.

Example

- *Three out of five city councilors inspect a new landfill site. Their inspection does not constitute a public meeting, unless they deliberate toward a decision on a city matter.*
- *Later, the three city councilors attend a League of Oregon Cities conference. Again, this is not a public meeting, unless the councilors discuss official city business.*
- *That evening, the three councilors chat during a concert intermission. As long as they talk about the music, this is not a public meeting. But if they stray into discussion of official city business, then it is.*

Also exempt from the Public Meetings Law are:

- Meetings of state or local lawyers assistance committees.
- Meetings of medical peer review committees.
- Meetings of multidisciplinary teams reviewing child abuse and neglect fatalities.
- Judicial proceedings. However, see Oregon Constitution, Section 10.
- Review by the Workers' Compensation Board and the Employment Appeals Board of hearings on contested cases.
- Meetings of the Energy Facility Siting Council when it reviews and approves security programs.
- The Oregon Health and Science University regarding presidential selection process, sensitive business matters, or meetings of faculty or staff committees.
- Mediation by the agricultural mediation service program.

For some entities, the deliberation process alone is exempt, although information-gathering and decision-making must be public. This applies to the State Board of Parole, the Psychiatric Security Review Board, and state agencies conducting hearings on contested cases under the Administrative Procedures Act.

Notice of Meetings

Governing bodies must give notice of the time, place and agenda for any regular, special or emergency meeting.

Public notice must be reasonably calculated to give actual notice to interested persons and media who have asked in writing to be notified of meetings and general notice to the public at large.

Governing bodies wishing to provide adequate notice should strive to provide as much notice as possible to ensure that those wishing to attend have ample opportunity – a week to 10 days for example.

At least 24-hour notice to members of the governing body, the public and media is required for any special meeting, unless the meeting is considered an emergency meeting. Appropriate notice is required for emergency meetings and should include phone calls to media and other interested parties. Notice for emergency meetings must also cite the emergency.

A meeting notice must include a list of the principal subjects to be considered at the meeting. This list should be specific enough to permit citizens to recognize matters of interest. However, discussion of subjects not on the agenda is allowed at the meeting.

Example

The State Board of Higher Education plans to discuss building new college campus in Burns. An agenda item that says "Discussion of public works" would be too general. Instead, the agenda should say something like "Discussion of proposed Burns campus."

Executive Sessions

Governing bodies are allowed to exclude the public - but generally not the media - from the discussion of certain subjects. These meetings are called executive sessions.

Executive sessions may be called during any regular, special or emergency meeting. A governing body may set a meeting solely to hold an executive session as long as it gives appropriate public notice. Notice requirements for executive sessions are the same as for regular, special or emergency meetings. However, labor negotiations conducted in executive sessions are not subject to public notice requirements.

Notice of an executive session must cite the specific law that authorizes the executive session. This authorization also must be announced before going into the executive session.

Governing bodies may formally specify that the media not disclose information that is the subject of the executive session. Governing bodies should not discuss topics apart from those legally justifying the executive session. Media representatives may report discussions that stray from legitimate executive session topics and are not required to inform the governing body when they intend to do so.

No final action may be taken in executive session. Decisions must be made in public session. If a governing body expects to meet publicly to make a final decision immediately after an executive session, it should try to announce the time of that open session to the public before the executive session begins.

Example

• City councilors meet in executive session to discuss the city manager's performance. A local reporter attends. During the meeting, the councilors discuss whether the city should put a bond measure on the next ballot. The reporter may write a story on the council's bond-measure discussion, because that discussion was not allowed under the executive session rules. The reporter may not write about the city manager's performance.

Executive Sessions Criteria

Executive sessions are allowed only for very limited purposes. Those include:

- 1. To consider the initial employment of a public officer**, employee or staff member, but not to fill a vacancy in an elected office, or on public committees, commissions or advisory groups. These sessions are allowed only if the position has been advertised, standardized procedures for hiring have been publicly adopted, and the public has had an opportunity for input on the process. Executive sessions are not allowed to consider general employment policies.
- 2. To consider dismissal**, discipline, complaints or charges against a public official, employee, official, staff or individual agent, unless that person requests a public hearing.
- 3. To review and evaluate the job performance** of a chief executive officer, or other officer or staff member, unless that person requests an open hearing. Such evaluation must be pursuant to standards, criteria and policy directives publicly adopted by the governing body following an opportunity for public comment. The executive session may not be used for the general evaluation of agency goals, objectives, programs or operations, or to issue any directive to personnel on the same.
- 4. To deliberate with persons designated to conduct labor negotiations.** The media may be excluded from these sessions.
- 5. To conduct labor negotiations** if both sides request that negotiations be in executive session. Public notice is not required for such meetings.
- 6. To consider records** that are exempt by law from public disclosure.
- 7. To consult with counsel** concerning litigation filed or likely to be filed against the public body. Members of the media that are a party to that litigation, or represent a media entity that is a party, may be excluded.
- 8. To consult with persons designated to negotiate** real property transactions.

- 9. To discuss matters of trade** when the governing body is in competition with other states or nations.
- 10. To negotiate with a private person** or business regarding public investments.
- 11. To discuss matters of medical competency** and other matters pertaining to licensed hospitals.
- 12. To consider information obtained by a health professional** regulatory board or State Landscape Architect Board as part of an investigation of licensee or applicant conduct.
- 13. To discuss information relating to the security of:** a nuclear power plant; transportation of radioactive materials; generation, storage or conveyance of electricity, gas hazardous substances, petroleum, sewage or water; and telecommunications and data transmission.
-

Media at Executive Sessions

Media representatives must be allowed to attend executive sessions, with three exceptions. Media may be excluded from:

- Strategy discussions with labor negotiators.
- Meetings to consider expulsion of a student or to discuss students' confidential medical records.
- Meetings to consult with counsel concerning litigation to which the media or media representative is a party.

A governing body may require that specific information not be reported by the media. This should be done by declaration of the presiding officer or vote. In the absence of this directive, the executive session may be reported. Any discussion of topics apart from those legally justifying the executive session may be reported by the media.

The media also is free to report on information gathered independently from executive session, even though the information may be the subject of an executive session.

Example

• A reporter attends the executive session on the city council's discussion of the city manager's performance. Afterwards the reporter asks a councilor what she thinks of the city manager's performance. She shares her criticism. The reporter may use that interview to develop a story, even though the reporter first heard the information at the executive session.

Minutes

Written, sound, video or digital recording of minutes are required for all meetings.

The meetings law says minutes must be made available within a "reasonable time" after each meeting, but does not specify the time. Generally, this time frame should not exceed three weeks. Minutes must be preserved for a "reasonable time." This is generally interpreted to be at least one year. Minutes of many governing bodies are subject to records retention rules and schedules established by the State Archivist.

Minutes must indicate:

- Members present
- All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition.
- The result of all votes by name of each member (except for public bodies consisting of more than 25 members). No secret ballots are allowed.
- The substance of discussion on any matter.
- A reference to any document discussed at the meeting.

Minutes are not required to be a verbatim transcript and the meeting does not have to be tape recorded unless so specified by law. Minutes are public record and may not be withheld from

the public merely because they will not be approved until the next meeting. Minutes of executive sessions are exempt from disclosure under the Oregon Public Records Law. Governing bodies are allowed to charge fees to recover their actual cost for duplicating minutes, tapes and records. A person with a disability may not be charged additional costs for providing records in larger print.

Enforcement

County district attorneys or the Oregon Attorney General's Office may be able to answer questions about possible public meetings law violations, although neither has any formal enforcement role and both are statutorily prohibited from providing legal advice to private citizens.

Any person affected by a governing body's decision may file a lawsuit in circuit court to require compliance with or prevent violations of the Public Meetings Law. The lawsuit must be filed within 60 days following the date the decision becomes public record.

The court may void a governing body's decision if the governing body intentionally or willfully violated the Public Meetings Law, even if the governing body has reinstated the decision in a public vote. The court also may award reasonable legal fees to a plaintiff who brings suit under the Public Meetings Law.

Complaints of executive session violations may be directed to the Oregon Government Ethics Commission, 3218 Pringle Road SE, Suite 220, Salem OR, 97302-1544; 503-378-5105, for review, investigation and possible imposition of civil penalties.

Members of a governing body may be liable for attorney and court costs both as individuals or as members of a group if found in willful violation of the Public Meetings Law.

For additional copies of this guide or information about Open Oregon, contact:

Open Oregon: A Freedom of information Coalition
PO Box 172, Portland, Oregon 97207-0172
info@open-oregon.com
www.open-oregon.com

Additional resources:

- **Oregon Attorney General's Public Records and Meetings Manual**, available by calling 503-378-2992 or writing to Department of Justice, 1162 Court Street NE, Salem, OR 97301-4096; www.doj.state.or.us/oregonians/pubs.shtml
- **Oregon Revised Statutes 192.610 to 162.690**, the Oregon Public Meetings Law, available in most libraries and on the internet at www.leg.state.or.us.
- **Oregon Newspaper Publishers Association**, 503-624-6397. Offers legal advice to member newspapers and general information about public records and meetings requirements; www.orennews.com
- **League of Oregon Cities**, 1201 Court St. NE, Salem, OR 97301. 503-588-6550; www.orcities.org
- **Association of Oregon Counties**, 1201 Court St. NE, Salem, OR 97301. 503-585-8351; www.aocweb.org
- **Oregon School Boards Association**, 1201 Court St. NE, Salem, OR 97301. 503-588-2800; www.osba.org
- **Special Districts Association of Oregon**, PO Box 12613, Salem, OR 97301-0613, 503-371-8667; www.sdao.com

Open Oregon Board of Directors

Honorary co-chairs:

- Dave Frohnmayer,
President, University of Oregon
- Bill Bradbury, Oregon Secretary of State

Directors:

- Bryan Brumley, President, Bureau Chief,
The Associated Press
- Lisa Phipps, Vice President, Mayor,
Rockaway Beach
- Kenneth Lewis, Treasurer,
Portland Attorney
- Judson Randall, Secretary,
Adviser, Student Publications,
Portland State University
- Diana Banning, Portland City Archivist
- Duane Bosworth, Attorney,
Davis Wright Tremaine

- Therese Bottomly,
Managing Editor, The Oregonian
- Nick Budnick,
Society of Professional Journalists
- Tim Doran, Editor,
The Bulletin, Bend, Oregon
- Cindy Gibbon, Multnomah County Library
- Tim Gleason, Dean, University of
Oregon School of Journalism
- Mary Beth Herkert,
Oregon State Archivist
- Laurie Hieb, Executive Director, Oregon
Newspaper Publishers Association
- Gail Holmes, League of Women Voters
- Phil Keisling, Former Oregon Secretary
of State, Pro DX
- Kevin Neely, C&E Systems
- Norman Turrill, League of Women Voters



A Freedom of Information Coalition

P.O. Box 172

Portland, Oregon 97207-0172



Protecting the public's right to know



Community Development Department

Planning, Building Safety, Environmental Soils, Code Enforcement
PO Box 6005, Bend, Oregon 97708-6005
117 NW Lafayette Avenue
www.deschutes.org/cd

Deschutes County Marijuana Advisory Committee

Ground Rules—DRAFT

This is a **draft** set of ground rules that the Deschutes County Marijuana Advisory Committee (MAC) will consider at its first meeting February 10, 2016.

RIGHTS AND RESPONSIBILITIES

1. Every MAC member has the right to be heard.
2. Every MAC member has the responsibility to try to find solutions that work for everyone involved.

BEHAVIOR

3. We let the facilitator manage the discussion, and alert her if the process is not working for us.
4. We listen well and let others finish before talking.
5. We demonstrate respect for all points of view and everyone present.

DECISION-MAKING AND REPORT TO THE BOARD

6. A quorum is a majority of the MAC members. A quorum must be present for the MAC to take action. A quorum cannot meet outside the formal meetings of the MAC.
7. We help others understand the reasons behind our support for or opposition to a proposal.
8. We operate by consensus, not voting. When we say we have consensus, it means

(This definition is to be decided on by the MAC. Some options are below:

- *Even if I may not love it, I believe that everyone's viewpoint has been considered, and I support and endorse the proposal.*
 - *100% of us are 80% OK with the proposal.*
 - *Other?)*
9. The MAC will produce a report to the Board of County Commissioners (Board) that will include all items on which the MAC attained consensus, and for those items without consensus, all points of view expressed by MAC members.
 10. We might agree provisionally on parts of the regulations and then agree on the full package later.
 11. The Board will decide which regulations will be put into the County code.

ROLE OF THE PUBLIC

12. Members of the public are welcome at every MAC meeting. There will be a short time at each meeting set aside for verbal public comment. Each person's time will be limited to allow time for everyone who wishes to speak. In addition, written comments will be accepted at any time and will be posted to the County's website, and all MAC members are expected to read them.

Deschutes County Marijuana Advisory Committee

Meeting Schedule / Topics for Discussion

Date	Action
Wednesday February 10 4:30 – 8:00 p.m.	Meeting #1 – Deschutes County Services Center, 1300 Wall Street, Bend DeArmond Room (4:30 to 5:00) and Barnes and Sawyer Rooms (5:00 to 8:00) <u>Topics for Discussion</u> <ul style="list-style-type: none"> • Introductions • Public Meeting Laws • Ground Rules • Schedule of Meetings / Desired Outcomes • Review of Planning Commission Recommendations • Public Comments
Wednesday, February 17 4:00 – 7:00 p.m.	Meeting #2 – Deschutes County Services Center, 1300 Wall Street, Bend Barnes and Sawyer Rooms <u>Topics for Discussion</u> <ul style="list-style-type: none"> • Discuss Recreational and Medical Marijuana Retail and Wholesaling • Agreement on Preliminary Recommendations • Begin Discussion of Recreational and Medical Marijuana Processing • Public Comments
Monday, February 22 4:00 – 7:00 p.m.	Meeting #3 – Deschutes County Services Center, 1300 Wall Street, Bend Barnes and Sawyer Rooms <u>DRAFT Topics for Discussion</u> <ul style="list-style-type: none"> • Discuss Recreational and Medical Marijuana Processing • Agreement on Preliminary Recommendations • Begin Discussion of Medical and Recreational Marijuana Production (if time permits) • Public Comments
Wednesday, March 2 4:00 – 7:00 p.m.	Meeting #4 – Deschutes County Services Center, 1300 Wall Street, Bend Barnes and Sawyer Rooms <u>DRAFT Topics for Discussion</u> <ul style="list-style-type: none"> • Discuss Recreational and Medical Marijuana Production • Agreement on Preliminary Recommendations • Public Comments

Deschutes County Marijuana Advisory Committee

Meeting Schedule / Topics for Discussion

Date	Action
Wednesday, March 9 4:00 – 7:00 p.m.	Meeting #5 – Deschutes County Services Center, 1300 Wall Street, Bend Barnes and Sawyer Rooms <u>DRAFT Topics for Discussion</u> <ul style="list-style-type: none">• Discuss Recreational and Medical Marijuana Production• Agreement on Preliminary Recommendations• Agreement on Final Recommendation Package to be sent to the Board of County Commissioners• Public Comments
Board of County Commissioners Meeting	
Wednesday, March 21	Deschutes County Services Center, 1300 Wall Street, Bend TBD (either Allen Room or Barnes and Sawyer Rooms) <u>Topics for Discussion</u> <ul style="list-style-type: none">• Committee Check-In



Community Development Department

Planning, Building Safety, Environmental Soils, Code Enforcement
PO Box 6005, Bend, Oregon 97708-6005
117 NW Lafayette Avenue
www.deschutes.org/cd

MEMORANDUM

TO: Deschutes County Marijuana Advisory Committee

FROM: Nick Lelack, Director
Peter Gutowsky, Planning Manager
Matthew Martin, Associate Planner

DATE: February 10, 2016

SUBJECT: Marijuana Advisory Committee Introductory Overview

I. SUMMARY

On February 3, 2015, the Board of County Commissioners (Board) appointed 13-members to the Deschutes County Marijuana Advisory Committee (MAC). The MAC is charged with developing and recommending reasonable time, place and manner land use regulations intended to mitigate the impacts of medical and recreational marijuana uses to the Board. These regulations could address sight, sound, smell, size/scale, location, security, and other impacts associated with marijuana land uses if the Board or voters rescind the opt-out ordinance in its entirety or in part. The purpose of this memorandum is to provide an overview of the legislative process to date.

II. BACKGROUND

Recreational marijuana became legal for personal use in Oregon, with the passage of Measure 91, on July 1, 2015. The Oregon Liquor Control Commission (OLCC) adopted temporary administrative rules on Oct. 22, 2015, effective January 1, 2016, to administer and implement the law to regulate recreational marijuana purchase, sale, production, processing, transportation and delivery. The OLCC began receiving license applications on January 4, 2016, to produce, process, wholesale and retail recreational marijuana. Medical marijuana production, processing and retailing are regulated by the Oregon Health Authority (OHA) with changes to the existing state law in these areas set to take effect on March 1, 2016.

State law provides for four categories of OLCC-licensed, marijuana-related uses—recreational marijuana production, recreational marijuana processing, recreational marijuana wholesaling and recreational marijuana retailing—and three categories of OHA-registered, marijuana-related uses—medical marijuana production, medical marijuana processing and medical marijuana dispensaries.

Deschutes County may not completely prohibit any of the defined types of marijuana-related land uses without a vote of the people. However, state law gives the county the authority to adopt “reasonable regulations” regarding these uses.

In September 2015, the Board held a series of work sessions to draft proposed standards for marijuana-related businesses in unincorporated Deschutes County for the Planning Commission to review and provide a recommendation after conducting public hearings.

On November 5 and 12, 2015, the Planning Commission conducted a public hearing to receive public testimony on the proposed regulations. Then on November 16 and 23, the Planning Commission deliberated on the proposed regulations. The Planning Commission voted 7-0 to forward a package of recommendations to regulate marijuana businesses in unincorporated Deschutes County. The recommended changes to the regulations are outlined in the attached matrices and summarized below:

1. **Production**
Marijuana production (growing) to only be permitted in the EFU Zone on properties 20 acres or larger and in the Rural Industrial Zone.
2. **Processing**
No processing allowed in the MUA-10 zone.
3. **Retailing**
 - a. Marijuana retailing to be conditional use rather than outright permitted use in applicable zoning districts.
 - b. Prohibit retailing in the Deschutes Junction and Deschutes River Woods Store Rural Commercial Zones.
4. **Wholesaling**
Marijuana wholesaling is limited to office use only with no onsite storage of marijuana products.
5. **Setbacks**
Increase yard setback from 100 feet to 200 feet.
6. **Odor Control**
Add standards to odor control requiring the filtration system be maintained in working order and used and to allow for the use of alternative odor control systems other than carbon systems.
7. **Lighting Control**
Adopt lighting control standards but consider additional measures to control skyward lighting. No consensus on recommendation.
8. **Secure Storage**
Revise secure storage requirement to match OLCC requirement.
9. **Noise**
Move noise standards to DCC 8.08, Noise Control, and apply to all buildings and mechanical equipment outside of a commercial or industrial zone. Keep a reference to the DCC 8.08 in the marijuana-related regulations.
10. **Screening**
Only apply to existing medical marijuana operations, including buildings and greenhouses.
11. **Water**
Require proof from the watermaster that proposed water supply complies with all applicable local, state, and federal laws.

12. **Separation Distances**

Include parks and youth activity centers (i.e. Boys and Girls Club)

13. Remove standards that apply to RR-10, F-1, F-2, and MUA-10 because no marijuana uses are recommended to be allowed in these zones.

14. **Fire Protection**

Establish standalone requirement that all marijuana processing of cannabinoid extracts are only permitted on properties located in a fire protection district.

15. **Nonconforming Uses**

Minor correction to referenced sections.

16. **Minors**

Remove because ORS and OLCC Rules include this requirement.

17. **Limiting Type/Number of Licenses**

Consider limiting the number of production licenses 1 indoor and 1 outdoor for every 10 or 20 acres of parcel area. Renewal/Inspection: Consider requiring permit renewal (annual, biennial) or require site inspections as a conditional of approval.

18. **Inspections and Advisory committee**

County to conduct inspections of approved marijuana businesses in 1-2 years to determine compliance and learn what's working and what's not. Consider forming an advisory committee to facilitate collaboration amongst interested parties to evaluate effectiveness of regulations and recommend changes as needed.

The Planning Commission also voted 5-2 to recommend the County not prohibit or "opt out" of any marijuana business type regulated by the State.

On December 2, 2015, the Board held two hearings to receive testimony on the proposed regulations and "opt out" options. Then on December 21, 2015, the Board voted unanimously to temporarily ban marijuana business in unincorporated Deschutes County. Commissioners expressed a desire to have more time to evaluate the impact of proposed regulations for businesses that grow, process and sell marijuana. As part of this decision, the Board expressed the desire to form the MAC to participate in this evaluation.

Attachments: Planning Commission Recommended Zoning Matrix
Planning Commission Recommended Specific Use Standards Matrix

PLANNING COMMISSION RECOMMENDATIONS

SUMMARY OF ZONES PERMITTING MARIJUANA RELATED BUSINESSES

(This table identifies the zones where marijuana related businesses are recommended to be allowed.)

Zone	Processing	Production	Retail	Wholesale	Comments	
Permitted: P Conditional Use: CU Not Allowed: -						
	Excluding Extracts	Including Extracts				
TITLE 18 – Deschutes County						
18.16 Exclusive Farm Use – EFU	P	P	P	-	-	Recommendation is to require 20-acre minimum parcel size
18.65 RURAL SERVICE CENTER – UC						
18.65.020 Commercial Mixed Use District (Brothers, Hampton, Millican, Whistlestop, Wildhunt)	-	-	-	CU	P	
18.65.021 Commercial Mixed Use (Alfalfa)	-	-	-	CU	P	
18.66 TERREBONNE RURAL COMMUNITY						
18.66.040 Commercial – TeC	CU	CU	-	CU	P	Recommendation is wholesaling to be office only with no storage of marijuana products allowed.
18.66.050 Commercial Rural – TeCR	CU	CU	-	CU	P	Recommendation is wholesaling to be office only with no storage of marijuana products allowed.
18.67 TUMALO RURAL COMMUNITY						
18.67.030 Residential 5-acre – TuR5	-	-	-	-	-	
18.67.040 Commercial – TuC	CU	CU	-	CU	P	Recommendation is wholesaling to be office only with no storage of marijuana products allowed.
18.67.060 Industrial – Tul	P	CU	-	CU	-	
18.74 RURAL COMMERCIAL						
18.74.020 Deschutes Junction and Deschutes River Woods Store	-	-	-	CU		
18.74.025 Spring River	-	-	-	CU	-	
18.74.027 Pine Forest and Rosland	-	-	-	CU	P	
18.100 Rural Industrial	P/CU	CU	CU	CU	-	
18.108 SUNRIVER UUC						
18.108.050 Commercial - SUC	-	-	-	CU	P	
18.108.055 Town Center - TC	-	-	-	CU	-	
18.108.110 Business Park - SUBP	P	CU	-	CU	P	
TITLE 19 - BEND						
No Marijuana Related Businesses Allowed						
TITLE 20 - REDMOND						
No Marijuana Related Businesses Allowed						
TITLE 21 - SISTERS						
No Marijuana Related Businesses Allowed						

PLANNING COMMISSION RECOMMENDATIONS
SUMMARY OF STANDARDS FOR MARIJUANA RELATED BUSINESS

	Marijuana Processing	Marijuana Production	Marijuana Retail	Marijuana Wholesaling	Staff Comments / Recommendations
Section 18.116.280					
Home Occupation	Prohibited	Prohibited	Prohibited	Prohibited	
Section 18.116.320					
Medical Marijuana Dispensaries (Repeal)					This section will be repealed and replaced by a combined dispensary/retail standards section.
Section 18.116.330					
Yard Setback	200 feet	200 feet			
Additional Setback	300 feet from an existing dwelling unit not located on the same property	300 feet from an existing dwelling unit not located on the same property			
Access	<ul style="list-style-type: none">Public roadExclusive road or easementIf shared private road or easement, all other property owners who have access rights to the private road or easement must agree	<ul style="list-style-type: none">Public roadExclusive road or easementIf shared private road or easement, all other property owners who have access rights to the private road or easement must agree			
Odor	Buildings and Greenhouses shall: <ul style="list-style-type: none">Equipped with carbon Filtration systemConsist of 1 or more fans.The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three.The filter(s) shall be rated for the required CFM.The filtration system shall be maintained in working order and shall be in use.An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.	Buildings and Greenhouses shall: <ul style="list-style-type: none">Equipped with carbon Filtration systemConsist of 1 or more fans.The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three.The filter(s) shall be rated for the required CFM.The filtration system shall be maintained in working order and shall be in use.An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.			Staff recommends further refinement including: <ul style="list-style-type: none">Reducing the CFM rate because it is to be excessive and unreasonable.Requiring doors and windows to remain closed excepts as needed for ingress/egress.Negative pressures shall be maintained inside the building.
Lighting	General consensus to mitigate light and preserve dark skies, but no consensus on to what extent or method (i.e., require shielding or obscuring roof/walls of greenhouses). <ul style="list-style-type: none">Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day.Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day.Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10.	General consensus to mitigate light and preserve dark skies, but no consensus on to what extent or method (i.e., require shielding or obscuring roof/walls of greenhouses). <ul style="list-style-type: none">Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day.Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day.Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10.			Keep in the marijuana-related business regulations and reference the applicability of DCC 15.10, Outdoor Lighting Ordinance (“Dark Skies Ordinance”) to greenhouses and transparent buildings. Amend, DCC 15.10 to specifically apply to marijuana production and processing in greenhouses and transparent buildings. Policy question of whether to apply lighting regulations to existing greenhouses and transparent buildings by Dec. 31, 2016. If yes, please see staff comments in the “Non-conformance” section below pertaining to potential legal issues. Consider revising “sunset to sunrise” to “7:00 p.m. to 7:00 a.m. the following day” to make it easier to enforce.

Security Cameras	Shall be directed to record only the subject property and public rights-of-way.	Shall be directed to record only the subject property and public rights-of-way.			In addition to the PC’s recommendation, add a statement “except as required to comply with licensing requirements of OLCC or registration requirements of OHA.”
Secure Disposal	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.		
Noise	Move to Noise Control Ordinance 8.08, and apply to all marijuana production and processing building and mechanical equipment outside of a commercial or industrial zone.	Move to Noise Control Ordinance 8.08, and apply to all marijuana production and processing building and mechanical equipment outside of a commercial or industrial zone.			Reference the applicability of these noise standards to marijuana-related businesses in the marijuana regulations, and move the regulations to DCC 8.08.
Screening	<p>Do not apply to buildings and greenhouses for new operations because OLCC’s security and site obscuring requirements combined with Planning Commission recommendations (i.e., increased setbacks) will mitigate impacts.</p> <p>These standards should only apply to existing, non-conforming operations, including buildings and greenhouses to mitigate impacts:</p> <p>a. A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties.</p> <p>b. Vegetation shall be continuously maintained.</p> <p>c. Combination of existing vegetation, berming, topography, wall, fence, or other can be used.</p> <p>d. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area.</p>	<p>Do not apply to buildings and greenhouses for new operations because OLCC’s security and site obscuring requirements combined with Planning Commission recommendations (i.e., increased setbacks) will mitigate impacts.</p> <p>These standards should only apply to existing, non-conforming operations, including buildings and greenhouses to mitigate impacts:</p> <p>a. A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties.</p> <p>b. Vegetation shall be continuously maintained.</p> <p>c. Combination of existing vegetation, berming, topography, wall, fence, or other can be used.</p> <p>d. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area.</p>			Please see staff comments under “Non-conforming” below comments.
Water	Proof from the watermaster that proposed water supply complies all applicable local, state, and federal laws.	Proof from the watermaster that proposed water supply complies all applicable local, state, and federal laws.			
Minimum Separation Distances	<ul style="list-style-type: none"> 1000 from public/private elementary and secondary schools, licenses child care center, licensed preschool, parks, and all approved/licensed youth activity centers (i.e., Boys & Girls Club) with a 501c3 status or description stating youth activities, excluding in-home child care. All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject property Change of use (i.e. new school) shall not cause violation of this standard 	<ul style="list-style-type: none"> 1000 from public/private elementary and secondary schools, licenses child care center, licensed preschool, parks, and all approved/licensed youth activity centers (i.e., Boys & Girls Club) with a 501c3 status or description stating youth activities, excluding in-home child care. All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject property Change of use (i.e. new school) shall not cause violation of this standard 	<ul style="list-style-type: none"> 1000 from public/private elementary and secondary schools, licenses child care center, licensed preschool, parks, and all approved/licensed youth activity centers (i.e., Boys & Girls Club) with a 501c3 status or description stating youth activities, excluding in-home child care. All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject property Change of use (i.e. new school) 		<p>Need to decide:</p> <ul style="list-style-type: none"> What qualifies as a youth activity center-501c3 status with title or description stating youth activities? How to obtain information on such activity centers during application review process? What happens if something is missed in the application review process? Could be challenging to include all such centers. Staff recommends this be clear and objective if it is included in the requirements.

			shall not cause violation of this standard		
Fire Protection	Marijuana processing of cannabinoid extracts shall only be permitted on properties located within a fire district.				
Nonconformance: Applying to lawfully established medical marijuana grows that continue to by only medical marijuana grows	Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.	Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.			<p>Existing, lawfully established (by OHA and County building, electrical, mechanical, etc. permits) medical marijuana production/grow sites should be clearly established in DCC as “legal, non-conforming” buildings and land uses.</p> <p>Legal and operational questions, however, exist about whether these standards can be applied retroactively to current medical marijuana production/grow sites. NOTE: Processing requires a land use permit under DCC, and no permits have been applied for or approved.</p> <p>QUESTIONS / ISSUES</p> <p>Is it legal to apply these standards to lawfully established pre-existing medical marijuana production/grow sites?</p> <p>Operationally, the County’s imposing new requirements on pre-existing medical marijuana production/grow sites raises the following issues:</p> <ol style="list-style-type: none">1. The County does not have a list of properties already approved by OHA for medical marijuana production/growing. Therefore, identifying locations, the number of registered and active productions/grows, etc. is unknown, and obtaining this information is legally challenging and may not be possible beyond responding to code enforcement complaints.2. Imposing these regulations require active code enforcement rather than complaint-drive code enforcement, resulting in a change in the program.3. Given the potential large number of properties and expected legal and compliance challenges, additional code enforcement, administrative, and legal resources (i.e., financial, limited duration staff) would be required for implementation. <p>NOTE: The County applied the Outdoor Lighting Ordinance (DCC 15.10) to all properties in the County and provided several years to comply. Staff is aware of imposing lighting and signage requirements retroactively with time to comply, but not other requirements.</p>
Hours			10:00 a.m. - 7:00 p.m.		
Window Service			Shall not have a walk-up window or drive-thru window service.		
Co-Location			Shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.		
Limit the Number of licenses a parcel		Consider limiting the number of OLCC production licenses of one type on a parcel to 1 indoor and 1 outdoor license per 10 or 20 acres.			Staff is researching this issue. If the Board supports this recommendation, staff will draft text to include it in the marijuana regulations.
Require inspections in 1-2 years to determine compliance	County to conduct inspections of each approved site in 1-2 years to determine compliance and to learn what’s working and what’s not. Require property owner to grant County access to conduct the inspection.	County to conduct inspections of each approved site in 1-2 years to determine compliance and to learn what’s working and what’s not. Require property owner to grant County access to conduct the inspection.	County to conduct inspections of each approved site in 1-2 years to determine compliance and to learn what’s working and what’s not. Require property owner to grant County access to		Most of the staff comments under “Nonconformance” above apply to this requirement. Specifically, the resource requirements and pro-active code enforcement comments apply. In addition, staff cannot trespass. Therefore, if the Board supports this recommendation, the same requirement in the Agri-tourism and Other Commercial Events

			conduct the inspection.		and Activities requiring the property owner to grant access should be required for marijuana production and processing permits.
Task Force	Create a stakeholder task force to monitor the program and regulations, make recommendations for improvements	Create a stakeholder task force to monitor the program and regulations, make recommendations for improvements	Create a stakeholder task force to monitor the program and regulations, make recommendations for improvements		If the Board supports establishing and staffing a task force, the options are: <div><div>1.</div><div>Add to a future CDD Planning Division Work Plan;</div></div> <div><div>2.</div><div>Re-evaluate and re-prioritize the current Work Plan to create capacity for this project; or</div></div> <div><div>3.</div><div>Hire additional staff to establish and staff the Task Force immediately.</div></div>

Enrolled

House Bill 3400

Sponsored by Representatives LININGER, OLSON, Senators BEYER, BURDICK, FERRIOLI, KRUSE, PROZANSKI; Senator STEINER HAYWARD

CHAPTER

AN ACT

Relating to marijuana; creating new provisions; amending ORS 133.005, 133.525, 133.721, 133.726, 153.005, 161.015, 161.705, 163.095, 165.805, 166.070, 181.010, 181.534, 181.537, 181.610, 181.645, 181.646, 238.005, 471.001, 471.360, 471.375, 471.675, 471.775, 475.300, 475.302, 475.303, 475.304, 475.306, 475.309, 475.312, 475.314, 475.316, 475.319, 475.320, 475.323, 475.326, 475.328, 475.331, 475.334, 475.338, 475.340, 475.342, 475.752, 475.856, 475.858, 475.860, 475.862, 475.864, 475.900, 475.904, 616.010, 659A.320, 659A.403, 659A.409, 659A.885 and 802.250 and section 32, chapter 54, Oregon Laws 2012, section 2, chapter 79, Oregon Laws 2014, and sections 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 45, 46, 47, 48, 49, 50, 51, 53, 56, 57, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 70 and 72, chapter 1, Oregon Laws 2015; repealing ORS 475.324 and sections 26, 42, 55, 71, 81, 82, 83, 84, 85 and 86, chapter 1, Oregon Laws 2015, and sections 32, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 69, 70, 71, 72, 73 and 74, chapter ___, Oregon Laws 2015 (Enrolled Senate Bill 964); and declaring an emergency.

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

BALLOT MEASURE 91

OPERATIVE JANUARY 1, 2016

(Definitions)

SECTION 1. Section 5, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 5. As used in sections 3 to 70, **chapter 1, Oregon Laws 2015** [of this Act]:

[(1) "Authority" means the Oregon Health Authority.]

[(2) "Commission" means the Oregon Liquor Control Commission.]

[(3)] (1) "Consumer" means a person who purchases, acquires, owns, holds[,] or uses marijuana items other than for the purpose of resale.

(2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(3) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

(a) A mechanical extraction process;

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

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

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

(4) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

(5) “Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:

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

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

(c) Any other process identified by the commission, in consultation with the authority, by rule.

(6)(a) “Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers.

(b) “Cannabinoid product” does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate by itself;

(C) A cannabinoid extract by itself; or

(D) Industrial hemp, as defined in ORS 571.300.

[(4) “Department” means the State Department of Agriculture.]

[(5)(a)] (7)(a) [“Financial consideration,” except as provided in paragraph (b) of this subsection,] **“Financial consideration”** means value that is given or received **either** directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.

(b) “Financial consideration” does not [mean any of the following] **include**:

(A) Homegrown marijuana [made by another person.] **that is given or received when nothing is given or received in return; or**

(B) Homemade [marijuana products made by another person.] **cannabinoid products or cannabinoid concentrates that are given or received when nothing is given or received in return.**

[(6)] (8) “Homegrown” or “homemade” means grown or made by a person 21 years of age or older for noncommercial purposes.

[(7)] (9) “Household” means a housing unit[,] and [includes] any place in or around [the] a housing unit at which the occupants of the housing unit are producing, processing, [keeping,] or storing homegrown marijuana or homemade [marijuana] **cannabinoid products or cannabinoid concentrates.**

[(8)] (10) “Housing unit” means a house, an apartment[,] **or** a mobile home, **or** a group of rooms[,] or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and [which have] **that has** direct access from the outside of the building or through a common hall.

[(9)] “Immature marijuana plant” means a marijuana plant with no observable flowers or buds.]

(11) **“Immature marijuana plant” means a marijuana plant that is not flowering.**

[(10)] (12) “Licensee” means [any] a person [holding] **who holds** a license issued under [this Act] **section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015**, or any person holding a license or permit issued under any regulation promulgated under paragraph (e) of subsection (2) of section 7 of this Act].

[(11)] (13) “Licensee representative” means an owner, director, officer, manager, employee, agent[,] or other representative of a licensee, to the extent [such] **that the** person acts in [such] a representative capacity.

[(12)(a) “Marijuana” means all parts of the plant *Cannabis* family *Moraceae*, whether growing or not, other than marijuana extracts.]

[(b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300, or industrial hemp commodities or products.]

[(13) “Marijuana extract” means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.]

(14)(a) “Marijuana” means the plant *Cannabis* family *Cannabaceae*, any part of the plant *Cannabis* family *Cannabaceae* and the seeds of the plant *Cannabis* family *Cannabaceae*.

(b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300.

[(14)(a)] **(15) “Marijuana flowers” means the flowers of the plant [*Cannabis* family *Moraceae*] genus *Cannabis* within the plant family *Cannabaceae*.**

[(b) “Marijuana flowers” does not include any part of the plant other than the flowers.]

[(15)] **(16) “Marijuana items” means marijuana, [marijuana products, and marijuana extracts] cannabinoid products, cannabinoid concentrates and cannabinoid extracts.**

[(16)(a)] **(17) “Marijuana leaves” means the leaves of the plant [*Cannabis* family *Moraceae*] genus *Cannabis* within the plant family *Cannabaceae*.**

[(b) “Marijuana leaves” does not include any part of the plant other than the leaves.]

[(17)] **(18) “Marijuana processor” means a person who processes marijuana items in this state.**

[(18)] **(19) “Marijuana producer” means a person who produces marijuana in this state.**

[(19)(a) “Marijuana products” means products that contain marijuana or marijuana extracts and are intended for human consumption.]

[(b) “Marijuana products” does not mean:]

[(A) Marijuana, by itself; or]

[(B) A marijuana extract, by itself.]

(20) “Marijuana retailer” means a person who sells marijuana items to a consumer in this state.

(21) “Marijuana wholesaler” means a person who purchases marijuana items in this state for resale to a person other than a consumer [in this state].

(22) “Mature marijuana plant” means [any] a marijuana plant that is not an immature marijuana plant.

(23) “Noncommercial” means not dependent or conditioned upon the provision or receipt of financial consideration.

[(24) “Person” means any natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, joint venture, or any other legal entity.]

[(25) “Premises” or “licensed premises” means a location licensed under sections 3 to 70 of this Act and includes:]

(24)(a) “Premises” or “licensed premises” includes the following areas of a location licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015:

[(a)] **(A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms[, including all public and private areas];**

[(b)] **(B) All areas outside [of] a building that the [Oregon Liquor Control] commission has specifically licensed for the production, processing, wholesale sale[, or retail sale of marijuana items; and**

[(c)] **(C) For a location that the commission has specifically licensed for the production of marijuana outside [of] a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases[, or has a right to occupy.**

(b) “Premises” or “licensed premises” does not include a primary residence.

[(26)(a)] **(25)(a) “Processes” means[:]**

[(A)] the processing, compounding[, or conversion of marijuana into [marijuana products or marijuana extracts;] **cannabinoid products, cannabinoid concentrates or cannabinoid extracts.**

(b) “Processes” does not include packaging or labeling.

[(B) The processing, compounding, or conversion of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis;]

[(C) The packaging or repackaging of marijuana items; or]

[(D) The labeling or relabeling of any package or container of marijuana items.]

[(b) “Processes” does not include:]

[(A) The drying of marijuana by a marijuana producer, if the marijuana producer is not otherwise processing marijuana; or]

[(B) The packaging and labeling of marijuana by a marijuana producer in preparation for delivery to a marijuana processor.]

[(27)(a)] **(26)(a)** “Produces” means the manufacture, planting, cultivation, growing[,] or harvesting of marijuana.

(b) “Produces” does not include:

(A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or

(B) The cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler[,] or marijuana retailer if the marijuana processor, marijuana wholesaler[,] or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

(27) “Propagate” means to grow immature marijuana plants or to breed or produce the seeds of the plant Cannabis family Cannabaceae.

(28) “Public place” means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and [premises] areas used in connection with public passenger transportation.

[(29) “Usable marijuana” means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.]

(29)(a) “Usable marijuana” means the dried leaves and flowers of marijuana.

(b) “Usable marijuana” does not include:

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

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

(Powers and Duties of Commission)

SECTION 2. Section 7, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 7. (1) The Oregon Liquor Control Commission has the powers and duties specified in sections 3 to 70, **chapter 1, Oregon Laws 2015, and** *[of this Act, and also]* the powers necessary or proper to enable *[it]* **the commission** to carry out *[fully and effectually all the purposes of]* **the commission’s duties, functions and powers under** sections 3 to 70, **chapter 1, Oregon Laws 2015** *[of this Act]*. The jurisdiction, supervision, *[powers and duties]* **duties, functions and powers** of the commission extend to any person who buys, sells, produces, processes, transports[,] or delivers any marijuana items within this state. The commission may sue and be sued.

(2) The *[function,]* duties, **functions** and powers of the commission in sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act]** include the following:

(a) To regulate the purchase, sale, production, processing, transportation[,] and delivery of marijuana items in accordance with the provisions of sections 3 to 70, **chapter 1, Oregon Laws 2015** *[of this Act]*.

(b) To grant, refuse, suspend or cancel licenses for the sale, processing[,] or production of marijuana items, or other licenses in regard to marijuana items, and to permit, in *[its]* **the commission’s** discretion, the transfer of a license *[of any person]* **between persons.**

[(c) To collect the taxes and duties imposed by sections 3 to 70 of this Act, and to issue, and provide for cancellation, stamps and other devices as evidence of payment of such taxes or duties.]

[(d)] (c) To investigate and aid in the prosecution of every violation of [Oregon statutes] the statutory laws of this state relating to marijuana items[,] and to cooperate in the prosecution of offenders before any state court of competent jurisdiction.

[(e)] (d) To adopt [such regulations as are], amend or repeal rules as necessary [and feasible for carrying] to carry out the intent and provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, including rules that the commission considers necessary to protect the public health and safety. [of this Act and to amend or repeal such regulations. When such regulations are adopted they shall have the full force and effect of law.]

[(f)] (e) To exercise all powers incidental, convenient or necessary to enable [it] the commission to administer or carry out [any of] the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, or any other law of this state that charges the commission with a duty, function or power related to marijuana [of this Act]. Powers described in this paragraph include, but are not limited to:

(A) Issuing subpoenas;

(B) Compelling the attendance of witnesses;

(C) Administering oaths;

(D) Certifying official acts;

(E) Taking depositions as provided by law;

(F) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and

(G) Establishing fees in addition to the application, licensing and renewal fees described in sections 19, 20, 21 and 22, chapter 1, Oregon Laws 2015, provided that any fee established by the commission is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

[(g) To regulate and prohibit any advertising by manufacturers, processors, wholesalers or retailers of marijuana items by the medium of newspapers, letters, billboards, radio or otherwise.]

(f) To adopt rules regulating and prohibiting marijuana producers, marijuana processors, marijuana wholesalers and marijuana retailers from advertising marijuana items in a manner:

(A) That is appealing to minors;

(B) That promotes excessive use;

(C) That promotes illegal activity; or

(D) That otherwise presents a significant risk to public health and safety.

[(h)] (g) To regulate the use of marijuana items for scientific, pharmaceutical, manufacturing, mechanical, industrial and other purposes.

(3) Fees collected pursuant to subsection (2)(e)(G) of this section shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

[(3) On or before January 1, 2016, the commission, after consultation with the State Department of Agriculture and the Oregon Health Authority, shall prescribe forms and adopt such rules and regulations as the commission deems necessary for the implementation and administration of sections 3 to 70 of this Act.]

[(4) On or before January 1, 2017, the commission shall:]

[(a) Examine available research, and may conduct or commission new research, to investigate the influence of marijuana on the ability of a person to drive a vehicle and on the concentration of delta-9 tetrahydrocannabinol in a person's blood, in each case taking into account all relevant factors; and]

[(b) Present the results of the research to the Legislative Assembly and make recommendations to the Legislative Assembly regarding whether any amendments to the Oregon Vehicle Code are appropriate.]

[(5) The commission has no power to purchase, own, sell, or possess any marijuana items.]

(Power to Purchase, Possess, Seize, Dispose)

SECTION 3. The Oregon Liquor Control Commission may purchase, possess, seize or dispose of marijuana items as is necessary for the commission to ensure compliance with and enforce the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015.

SECTION 4. Any state officer, board, commission, corporation, institution, department or other state body, and any local officer, board, commission, institution, department or other local government body, that is authorized by the statutory laws of this state to perform a duty, function or power with respect to a marijuana item, may purchase, possess, seize or dispose of the marijuana item as the state officer, board, commission, corporation, institution, department or other state body, or the local officer, board, commission, institution, department or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law.

(Regulation of Licensees)

SECTION 5. Section 25, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 25. (1) A license granted under sections 3 to 70, **chapter 1, Oregon Laws 2015** *[of this Act shall]*:

(a) *[Be]* **Is** a purely personal privilege.

(b) *[Be]* **Is** valid for the period stated in the license.

(c) *[Be]* **Is** renewable in the manner provided in section 28, **chapter 1, Oregon Laws 2015** *[of this Act]*, except for a cause *[which]* **that** would be grounds for refusal to issue *[such]* **the** license under section 29, **chapter 1, Oregon Laws 2015** *[of this Act]*.

(d) *[Be]* **Is** revocable or suspendible as provided in section 30, **chapter 1, Oregon Laws 2015** *[of this Act]*.

(e) *[Be]* **Is** transferable from the premises for which the license was originally issued to another premises subject to the provisions of *[this Act, any]* **sections 3 to 70, chapter 1, Oregon Laws 2015, applicable** rules of the Oregon Liquor Control Commission and *[any municipal ordinance or local regulation]* **applicable local ordinances**.

(f) *[Cease]* **Expires** upon the death of the licensee, except as provided in subsection (2) of this section.

(g) **Does** not constitute property.

(h) **Is** not *[be]* alienable.

(i) **Is** not *[be]* subject to attachment or execution.

(j) **Does** not descend by the laws of testate or intestate devolution.

(2) The commission may, by order, provide for the manner and conditions under which:

(a) Marijuana items left by *[any]* **a** deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed *[of]*.

(b) The business of *[any]* **a** deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(c) *[A business licensed pursuant to sections 3 to 70 of this Act subject to a security interest may be continued in business by a secured party as defined in ORS 79.0102]* **A secured party, as defined in ORS 79.0102, may continue to operate a business for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, for a reasonable period after default on the indebtedness by the debtor.**

SECTION 6. Section 27, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 27. (1) A marijuana producer, marijuana processor[,] or marijuana wholesaler *[shall]* **may** deliver marijuana items only to or on a licensed premises.

(2) A licensed premises may receive marijuana items only from a marijuana producer, marijuana processor or marijuana wholesaler for whom a premises has been licensed by the Oregon Liquor Control Commission.

(3) The sale of marijuana items *[under any license issued by the Oregon Liquor Control Commission for retail sales by a licensee shall]* **by a marijuana retailer that holds a license issued under section 22, chapter 1, Oregon Laws 2015, must** be restricted to the premises described in the license, but deliveries may be made by the marijuana retailer to consumers pursuant to a bona fide *[orders]* **order** received *[on]* **at** the licensed premises prior to delivery.

SECTION 7. Section 28, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 28. (1) *[Any person desiring]* **An applicant for** a license or renewal of a license under sections 3 to 70, **chapter 1, Oregon Laws 2015, shall apply** *[of this Act shall make application]* to the Oregon Liquor Control Commission *[upon forms to be furnished]* **in the form required** by the commission, showing the name and address of the applicant, location of the place of business that is to be operated under the license[,] and *[such]* other pertinent information *[as]* **required by** the commission *[may require]*. *[No license shall be granted or renewed]* **The commission may not grant or renew a license** until the applicant has complied with the provisions of sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act]** and the rules of the commission.

(2) The commission may reject any application that is not submitted in the form required by rule. The commission shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Except as provided in subsection (2) of this section, a revocation of, or a refusal to issue or renew, a license under sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act]** is subject to the requirements for contested case proceedings under ORS chapter 183.

[(4) The commission shall assess a nonrefundable fee for processing a new or renewal application for any license authorized by sections 3 to 70 of this Act. The application processing fee shall be \$250.]

[(5) The annual license fee for any license granted under sections 3 to 70 of this Act shall be \$1,000. The license fee is nonrefundable and shall be paid by each applicant upon the granting or committing of a license.]

SECTION 8. Section 29, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 29. (1) The Oregon Liquor Control Commission may not license *[any]* **an** applicant under the provisions of sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act]** if the applicant is under 21 years of age.

(2) The *[Oregon Liquor Control]* commission may refuse to license *[any]* **an** applicant under the provisions of sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act]** if the commission has reasonable ground to believe *[any of the following to be true:]*

[(a) That there are sufficient licensed premises in the locality set out in the application, or that the granting of a license in the locality set out in the application is not demanded by public interest or convenience. In determining whether there are sufficient licensed premises in the locality, the commission shall consider seasonal fluctuations in the population of the locality and shall ensure that there are adequate licensed premises to serve the needs of the locality during the peak seasons.]

[(b)] that the applicant:

[(A)] **(a)** Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana[,] or controlled substances to excess.

[(B)] **(b)** Has made false statements to the commission.

[(C)] **(c)** Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

[(D)] **(d)** Has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

[(E) Has maintained an insanitary establishment.]

[F] (e) Is not of good repute and moral character.

[G] (f) *[Did]* **Does** not have a good record of compliance with sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* or any rule of the commission adopted *[pursuant thereto]* **under sections 3 to 70, chapter 1, Oregon Laws 2015**.

[H] (g) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business *[which]* **that** have not been disclosed.

[I] (h) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

[J] (i) Is unable to understand the laws of *[Oregon]* **this state** relating to marijuana or the rules of the commission **relating to marijuana**.

(3) Notwithstanding *[subparagraph (D) of paragraph (b) of]* subsection (2)(d) of this section, in determining whether the commission may refuse to license an applicant, the commission may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent[,] or other representative of the applicant for:

(a) The manufacture of marijuana, if:

(A) The date of the conviction is **two or** more *[than five]* years before the date of the application; and

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

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

(A) The date of the conviction is **two or** more *[than five]* years before the date of the application; and

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

(c) The possession of marijuana.

SECTION 9. Section 30, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 30. *[(1)]* The Oregon Liquor Control Commission may *[cancel]* **revoke** or suspend *[any]* **a** license issued under sections 3 to 70, **chapter 1, Oregon Laws 2015** *[of this Act]*, if the commission finds or has reasonable ground to believe any of the following to be true:

[(a)] (1) That the licensee:

[(A)] (a) Has violated *[any]* **a** provision of sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* or *[any]* **a** rule of the commission adopted *[pursuant thereto]* **under sections 3 to 70, chapter 1, Oregon Laws 2015**.

[(B)] (b) Has made any false representation or statement to the commission in order to induce or prevent action by the commission.

[(C)] *Has maintained an insanitary establishment.*

[(D)] (c) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

[(E)] (d) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana[,] or controlled substances to excess.

[(F)] (e) Has misrepresented to a customer or the public any marijuana items sold by the licensee.

[(G)] (f) Since the granting of the license, has been convicted of a felony, of violating any of the marijuana laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the licensed premises.

[(b)] (2) That there is any other reason that, in the opinion of the commission, based on public convenience or necessity, warrants canceling or suspending *[such]* **the** license.

[(2)] *Civil penalties under this section shall be imposed as provided in ORS 183.745.*

SECTION 10. **For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Oregon Liquor Control Commission may require the fingerprints of any individual listed on an application submitted under section 28, chapter 1, Oregon Laws 2015.**

SECTION 11. Section 18, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 18. (1) *[On or before January 4, 2016,]* The Oregon Liquor Control Commission shall *[begin receiving applications for the licensing of persons]* **approve or deny an application** to produce, process[,] and sell marijuana *[within the state]* **under sections 19, 20, 21 and 22, chapter 1, Oregon Laws 2015.** Upon *[receipt of a license]* **receiving an** application, the commission *[shall]* **may** not unreasonably delay *[the processing, approval, or rejection of]* **processing, approving or denying** the application or, if the application is approved, *[the issuance of]* **issuing** the license.

(2) The licenses described in sections *[3 to 70 of this Act shall]* **19, 20, 21 and 22, chapter 1, Oregon Laws 2015, must** be issued by the commission, subject to *[its regulations and restrictions and]* the provisions of sections 3 to 70 *[of this Act], chapter 1, Oregon Laws 2015, and the rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015.*

(3) The commission may not license a premises that does not have defined boundaries. A licensed premises *[need not]* **does not need to** be enclosed by a wall, fence or other structure, but the commission may require that *[any]* **a** licensed premises be enclosed as a condition of issuing or renewing a license. The commission may not license *[premises that are]* mobile **premises.**

(License Holders)

SECTION 12. Section 19, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 19. (1) The production of marijuana is subject to regulation by the Oregon Liquor Control Commission.

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

(a) **Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;**

(b) **Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older; and**

(c) **Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.**

(3) **The commission shall adopt rules that:**

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

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

(c) **Require marijuana produced by marijuana producers to be tested in accordance with section 92 of this 2015 Act;**

(d) **Require marijuana producers to submit, at the time of applying for or renewing a license under section 28, chapter 1, Oregon Laws 2015, a report describing the applicant's or licensee's electrical or water usage; and**

(e)(A) **Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to:**

(i) **The production of marijuana; or**

(ii) **The propagation of immature marijuana plants and the seeds of the plant Cannabis family Cannabaceae.**

(B) **For purposes of establishing rules under subparagraph (A)(ii) of this paragraph, the commission may not limit:**

(i) **The number of immature marijuana plants that may be possessed by a marijuana producer licensed under this section;**

(ii) **The size of the grow canopy a marijuana producer licensed under this section uses to grow immature marijuana plants; or**

(iii) The weight or size of shipments of immature marijuana plants made by a marijuana producer licensed under this section.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana producers;

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

(c) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 13. (1) Subject to subsection (2) of this section, the Oregon Liquor Control Commission shall adopt rules restricting the size of mature marijuana plant grow canopies at premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015. In adopting rules under this subsection, the commission shall:

(a) Limit the size of mature marijuana plant grow canopies, for premises where marijuana is grown outdoors and for premises where marijuana is grown indoors, in a manner calculated to result in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers regardless of whether the marijuana is grown outdoors or indoors.

(b) Adopt a tiered system under which the permitted size of a marijuana producer's mature marijuana plant grow canopy increases at the time of licensure renewal under section 19, chapter 1, Oregon Laws 2015, except that the permitted size of a marijuana producer's mature marijuana plant grow canopy may not increase following any year during which the commission disciplined the marijuana producer for violating a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.

(c) Take into consideration the market demand for marijuana items in this state, the number of persons applying for a license under section 19, chapter 1, Oregon Laws 2015, and to whom a license has been issued under section 19, chapter 1, Oregon Laws 2015, and whether the availability of marijuana items in this state is commensurate with the market demand.

(2) This section does not apply to a premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015, if the premises is used only to propagate immature marijuana plants.

SECTION 14. Section 20, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 20. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. **To hold a processor license under this section, a marijuana processor:**

(a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;

(c) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and

(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

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

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

(c) Require marijuana processed by a marijuana processor to be tested in accordance with section 92 of this 2015 Act; and

(d) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:

(A) Cannabinoid edibles;

(B) Cannabinoid concentrates;

(C) Cannabinoid extracts; and

(D) Any other type of cannabinoid product identified by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana processors; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 15. Section 21, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 21. (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, [kept,] stored[,] or delivered. **To hold a wholesale license under this section, a marijuana wholesaler:**

(a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;

(c) May not be located in an area that is zoned exclusively for residential use; and

(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

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

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

(c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with section 92 of this 2015 Act; and

(d) Require a marijuana wholesaler to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana wholesalers; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 16. Section 22, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 22. (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. **To hold a retail license under this section, a marijuana retailer:**

(a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;

(c) May not be located in an area that is zoned exclusively for residential use;

- (d) May not be located within 1,000 feet of:
 - (A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
 - (B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and
- (e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
 - (3) The commission shall adopt rules that:
 - (a) Require a marijuana retailer to annually renew a license issued under this section;
 - (b) Establish application, licensure and renewal of licensure fees for marijuana retailers;
 - (c) Require marijuana items sold by a marijuana retailer to be tested in accordance with section 92 of this 2015 Act; and
 - (d) Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.
 - (4) Fees adopted under subsection (3)(b) of this section:
 - (a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana retailers; and
 - (b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 17. If a school described in section 22 (2)(d), chapter 1, Oregon Laws 2015, that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, the marijuana retailer located at that premises may remain at that location unless the Oregon Liquor Control Commission revokes the license of the marijuana retailer under section 30, chapter 1, Oregon Laws 2015.

(Segregated Premises)

SECTION 18. As is necessary to protect the public health and safety, the Oregon Liquor Control Commission may require a premises licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, to be segregated into separate areas:

- (1) For conducting the activities permitted under each license if the licensee holds more than one license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; or
- (2) For conducting activities related to processing marijuana into different types of cannabinoid products, cannabinoid concentrates or cannabinoid extracts, if the licensee is a marijuana processor that processes marijuana into any combination of different types of products, concentrates and extracts.

(Marijuana Handlers)

SECTION 19. (1) An individual who performs work for or on behalf of a person who holds a license under section 22, chapter 1, Oregon Laws 2015, must have a valid permit issued by the Oregon Liquor Control Commission under section 20 of this 2015 Act if the individual participates in:

- (a) The possession, securing or selling of marijuana items at the premises for which the license has been issued;
 - (b) The recording of the possession, securing or selling of marijuana items at the premises for which the license has been issued; or
 - (c) The verification of any document described in section 16, chapter 1, Oregon Laws 2015.
- (2) A person who holds a license under section 22, chapter 1, Oregon Laws 2015, must verify that an individual has a valid permit issued under section 20 of this 2015 Act before

allowing the individual to perform any work described in subsection (1) of this section at the premises for which the license has been issued.

SECTION 20. (1) The Oregon Liquor Control Commission shall issue permits to qualified applicants to perform work described in section 19 of this 2015 Act. The commission shall adopt rules establishing:

- (a) The qualifications for performing work described in section 19 of this 2015 Act;
- (b) The term of a permit issued under this section;
- (c) Procedures for applying for and renewing a permit issued under this section; and
- (d) Reasonable application, issuance and renewal fees for a permit issued under this section.

(2)(a) The commission may require an individual applying for a permit under this section to successfully complete a course, made available by or through the commission, through which the individual receives training on:

- (A) Checking identification;
- (B) Detecting intoxication;
- (C) Handling marijuana items;

(D) The content of sections 3 to 70, chapter 1, Oregon Laws 2015, and rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015; and

(E) Any matter deemed necessary by the commission to protect the public health and safety.

(b) The commission or other provider of the course may charge a reasonable fee for the course.

(c) The commission may not require an individual to successfully complete the course more than once, except that:

(A) As part of a final order suspending a permit issued under this section, the commission may require a permit holder to successfully complete the course as a condition of lifting the suspension; and

(B) As part of a final order revoking a permit issued under this section, the commission shall require an individual to successfully complete the course prior to applying for a new permit.

(3) The commission shall conduct a criminal records check under ORS 181.534 on an individual applying for a permit under this section.

(4) Subject to the applicable provisions of ORS chapter 183, the commission may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit:

(a) Is convicted of a felony, except that the commission may not consider a conviction for the manufacture or delivery of marijuana if the date of the conviction is two or more years before the date of the application or renewal;

(b) Violates any provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015; or

(c) Makes a false statement to the commission.

(5) A permit issued under this section is a personal privilege and permits work described under section 19 of this 2015 Act only for the individual who holds the permit.

(Employment Relations)

SECTION 20a. (1) An employee of a person licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, has the right to form, join and participate in the activities of a labor organization of the employee's own choosing for the purpose of securing representation and collective bargaining for matters concerning employment relations with the person licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(2) For purposes of this section, the provisions of ORS chapters 661 to 663 apply to relations between employees of persons licensed under section 19, 20, 21 and 22, chapter 1, Oregon Laws 2015, and employers that are licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, in the same manner that those provisions apply to other employment relations.

SECTION 20b. (1) It is an unlawful employment practice for a person that holds a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, to discharge, demote, suspend or in any manner discriminate or retaliate against an employee of the person with regard to promotion, compensation or other terms, conditions or privileges of employment on the basis that the employee has in good faith reported information to the Oregon Liquor Control Commission that the employee believes is evidence of a violation of a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.

(2) This section is subject to enforcement under ORS chapter 659A.

SECTION 20c. In adopting rules related to industry best practices under sections 19, 20, 21 and 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission may establish merit-based criteria for licensure or renewal of licensure, including, but not limited to, possession of a developed business plan, access to sufficient capital, offering living wages and benefits to employees, provision of training and apprenticeship, provision of community benefits, implementation of best environmental practices and implementation of consumer safety practices.

(Bonds and Liability Insurance)

SECTION 21. (1) Except as provided in subsection (2) of this section, the Oregon Liquor Control Commission may require a person that holds a license under section 22, chapter 1, Oregon Laws 2015, to maintain on file with the commission a bond with a corporate surety authorized to transact business in this state. The bond shall be in a form acceptable to the commission and shall be in an amount that the commission determines is reasonably affordable and available. The bond is payable to the commission if the licensee fails to pay any tax imposed on the retail sale of marijuana items as required by state law.

(2) In lieu of maintaining the bond required by subsection (1) of this section, a person that holds a license under section 22, chapter 1, Oregon Laws 2015, may deposit in a bank or trust company for the benefit of the commission an equivalent amount in cash, letters of credit recognized by the State Treasurer or negotiable securities of a character approved by the State Treasurer. Interest earned on deposited funds or securities shall accrue to the person that made the deposit.

SECTION 22. As is necessary to protect the public health and safety, the Oregon Liquor Control Commission may require a person that holds a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, to maintain general liability insurance in an amount that the commission determines is reasonably affordable and available for the purpose of protecting the person against damages resulting from a cause of action related to activities undertaken pursuant to the license.

(Seed to Sale Tracking System)

SECTION 23. (1) The Oregon Liquor Control Commission shall develop and maintain a system for tracking the transfer of marijuana items between licensed premises.

(2) The purposes of the system developed and maintained under this section include, but are not limited to:

(a) Preventing the diversion of marijuana items to criminal enterprises, gangs, cartels and other states;

- (b) Preventing persons from substituting or tampering with marijuana items;
 - (c) Ensuring an accurate accounting of the production, processing and sale of marijuana items;
 - (d) Ensuring that taxes are collected for the purpose of being distributed as described in section 44, chapter 1, Oregon Laws 2015;
 - (e) Ensuring that laboratory testing results are accurately reported; and
 - (f) Ensuring compliance with the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, rules adopted under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and any other law of this state that charges the commission with a duty, function or power related to marijuana.
- (3) The system developed and maintained under this section must be capable of tracking, at a minimum:
- (a) The propagation of immature marijuana plants and the production of marijuana by a marijuana producer;
 - (b) The processing of marijuana by a marijuana processor;
 - (c) The receiving, storing and delivering of marijuana items by a marijuana wholesaler;
 - (d) The sale of marijuana items by a marijuana retailer to a consumer;
 - (e) The purchase and sale of marijuana items between licensees, as permitted by sections 3 to 70, chapter 1, Oregon Laws 2015;
 - (f) The transfer of marijuana items between licensed premises;
 - (g) The collection of taxes imposed upon the retail sale of marijuana items under section 70 of this 2015 Act; and
 - (h) Any other information that the commission determines is reasonably necessary to accomplish the duties, functions and powers of the commission under sections 3 to 70, chapter 1, Oregon Laws 2015.

(Identification Requirement)

SECTION 24. Section 16, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 16. *[All licensees and licensee representatives, before selling or serving marijuana items to any person about whom there is any reasonable doubt of the person's having reached 21 years of age, shall require such person to produce one of the following pieces of identification:]*

(1) Subject to subsection (2) of this section, a licensee or licensee representative, before selling or providing a marijuana item to another person, must require the person to produce one of the following pieces of identification:

- [(1)]* (a) The person's passport.
- [(2)]* (b) The person's *[motor vehicle operator's]* **driver** license, whether issued in this state or by any other state, *[so]* **as** long as the license has a picture of the person.
- [(3)]* (c) An identification card issued under ORS 807.400.
- [(4)]* (d) A United States military identification card.
- [(5)]* (e) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(2) The Oregon Liquor Control Commission may adopt rules exempting a licensee or licensee representative from this section.

(Protection of Persons Under 21 Years of Age)

SECTION 25. Section 49, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 49. *[(1) A person under 21 years of age may not attempt to purchase marijuana items.]*

[(2) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.]

[(3) A person who violates subsection (1) or (2) of this section commits a Class B violation.]

[(4) In addition to and not in lieu of any other penalty established by law, a person under 21 years of age who violates subsection (1) of this section through misrepresentation of age may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.]

[(5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).]

[(6) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana items to persons who are under 21 years of age.]

(1)(a) A person under 21 years of age may not attempt to purchase, purchase or acquire a marijuana item.

(b) For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and acquiring a marijuana item includes consuming a marijuana item, provided that the consumption of the marijuana item occurred no more than 24 hours before the determination that the person consumed the marijuana item.

(2) Except as authorized by the Oregon Liquor Control Commission by rule, or as necessary in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

(3) A person who violates subsection (1) or (2) of this section commits a Class B violation.

(4) In addition to and not in lieu of any other penalty established by law, a court may require a person under 21 years of age who violates subsection (1) of this section through misrepresentation of age to perform community service, and the court may order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(6) In addition to and not in lieu of any penalty established by law, the court may order a person to undergo assessment and treatment if the person has previously been found to have violated this section.

(7) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations

by employees of the licensee of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(9)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance because the person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

SECTION 26. The Oregon Liquor Control Commission may adopt rules establishing the circumstances under which the commission may require a marijuana retailer that holds a license issued under section 22, chapter 1, Oregon Laws 2015, to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the marijuana retailer does not sell marijuana items to a person under 21 years of age. The marijuana retailer may not retain any information obtained under this section after verifying a person's age. The marijuana retailer may not use any information obtained under this section for any purpose other than verifying a person's age.

SECTION 27. ORS 659A.403 is amended to read:

659A.403. (1) Except as provided in subsection (2) of this section, all persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, without any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, national origin, marital status or age if the individual is [18 years] of age, **as described in this section**, or older.

(2) Subsection (1) of this section does not prohibit:

(a) The enforcement of laws governing the consumption of alcoholic beverages by minors and the frequenting by minors of places of public accommodation where alcoholic beverages are served; [or]

(b) **The enforcement of laws governing the use of marijuana items, as defined in section 5, chapter 1, Oregon Laws 2015, by persons under 21 years of age and the frequenting by persons under 21 years of age of places of public accommodation where marijuana items are sold; or**

[(b)] (c) The offering of special rates or services to persons 50 years of age or older.

(3) It is an unlawful practice for any person to deny full and equal accommodations, advantages, facilities and privileges of any place of public accommodation in violation of this section.

SECTION 28. ORS 659A.409 is amended to read:

659A.409. Except as provided by laws governing the consumption of alcoholic beverages by minors [and], **the use of marijuana items, as defined in section 5, chapter 1, Oregon Laws 2015, by persons under 21 years of age**, the frequenting by minors of places of public accommodation where alcoholic beverages are served[,] **and the frequenting by persons under 21 years of age of places of public accommodation where marijuana items are sold**, and except for special rates or services offered to persons 50 years of age or older, it is an unlawful practice for any person acting on behalf of any place of public accommodation as defined in ORS 659A.400 to publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that any of the accommodations, advantages, facilities, services or privileges of the place of public accommodation will be refused, withheld from or denied to, or that any discrimination will be made against, any person on account of race, color,

religion, sex, sexual orientation, national origin, marital status or age if the individual is [18 years] of age, as described in this section, or older.

(Enforcement)

SECTION 29. In addition to any other liability or penalty provided by law, the Oregon Liquor Control Commission may impose for each violation of a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, a civil penalty that does not exceed \$5,000 for each violation. The commission shall impose civil penalties under this section in the manner provided by ORS 183.745. Moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 30. (1) An Oregon Liquor Control Commission regulatory specialist has the authority as provided in ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.235 and 161.245, ORS chapter 153, chapter 743, Oregon Laws 1971, and sections 3 to 70, chapter 1, Oregon Laws 2015, to conduct inspections and investigations, make seizures, aid in prosecutions for offenses, issue citations for violations and otherwise enforce the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, and any other law of this state that charges the commission with a duty, function or power related to marijuana, including enforcing any provision of a law or rule related to individuals who use false identification for purposes of purchasing or possessing a marijuana item or who engage in illegal activity on or near a licensed premises.

(2) A commission regulatory specialist may not:

(a) Be sworn in as a federal law enforcement official and act in that capacity while performing duties under this section.

(b) Carry a firearm.

(c) Conduct inspections and investigations of a primary residence or for purposes of ensuring compliance with section 6, chapter 1, Oregon Laws 2015.

(d) Except as provided in section 116 of this 2015 Act, conduct inspections and investigations for purposes of ensuring compliance with ORS 475.300 to 475.346.

SECTION 31. For purposes of sections 3 to 70, chapter 1, Oregon Laws 2015, the provisions of ORS 183.440 apply to subpoenas issued by the Oregon Liquor Control Commission and any authorized agent of the commission.

(Marijuana Control and Regulation Fund)

SECTION 32. The Marijuana Control and Regulation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Marijuana Control and Regulation Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Liquor Control Commission to administer and enforce sections 3 to 70, chapter 1, Oregon Laws 2015.

(Land Use)

SECTION 33. Section 59, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 59. [(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.]

[(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.]

- (1) For purposes of this section, “reasonable regulations” includes:
- (a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;
 - (b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;
 - (c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under section 21, chapter 1, Oregon Laws 2015, may sell marijuana at wholesale;
 - (d) Reasonable limitations on the hours during which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may operate;
 - (e) Reasonable conditions on the manner in which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may sell marijuana items;
 - (f) Reasonable requirements related to the public’s access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and
 - (g) Reasonable limitations on where a premises for which a license may be issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, may be located.
- (2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.
- (3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.

SECTION 34. (1) Notwithstanding any other provision of law, marijuana is:

- (a) A crop for the purposes of “farm use” as defined in ORS 215.203;
 - (b) A crop for purposes of a “farm” and “farming practice,” both as defined in ORS 30.930;
 - (c) A product of farm use as described in ORS 308A.062; and
 - (d) The product of an agricultural activity for purposes of ORS 568.909.
- (2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:
- (a) A new dwelling used in conjunction with a marijuana crop;
 - (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and
 - (c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.
- (3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.
- (4)(a) Prior to the issuance of a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
- (b) A city or county that receives a request for a land use compatibility statement under this subsection must act on that request within 21 days of:
- (A) Receipt of the request, if the land use is allowable as an outright permitted use; or

- (B) Final local permit approval, if the land use is allowable as a conditional use.
- (c) A city or county action concerning a land use compatibility statement under this subsection is not a land use decision for purposes of ORS chapter 195, 196, 197 or 215.

(Local Option Tax)

SECTION 34a. (1)(a) Except as expressly authorized by this section, the authority to impose a tax or fee on the production, processing or sale of marijuana items in this state is vested solely in the Legislative Assembly.

(b) Except as expressly authorized by this section, a county, city or other municipal corporation or district may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items in this state.

(2) Subject to subsection (4) of this section, the governing body of a city or county may adopt an ordinance to be referred to the electors of the city or county as described in subsection (3) of this section that imposes a tax or a fee on the sale of marijuana items that are sold in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of a county by a person that holds a license under section 22, chapter 1, Oregon Laws 2015.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body shall refer the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(4) An ordinance adopted under this section may not impose a tax or fee in excess of 3 percent.

(Form and Style Amendments)

SECTION 35. Section 1, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 1. (1) The People of the State of Oregon declare that the purposes of **sections 3 to 70, chapter 1, Oregon Laws 2015**, [this Act] are:

(a) To eliminate the problems caused by the prohibition and uncontrolled manufacture, delivery[,] and possession of marijuana within this state;

(b) To protect the safety, welfare, health[,] and peace of the people of this state by prioritizing [the] **this** state's limited law enforcement resources in the most effective, consistent[,] and rational way;

(c) To permit persons licensed, controlled[,] **and** regulated[, and taxed] by this state to legally manufacture and sell marijuana to persons 21 years of age and older, subject to the provisions of **sections 3 to 70, chapter 1, Oregon Laws 2015** [this Act];

(d) To ensure that the State Department of Agriculture issues industrial hemp licenses and agricultural hemp seed production permits in accordance with [existing] state law; and

(e) To establish a comprehensive regulatory framework concerning marijuana under existing state law.

(2) The People of the State of Oregon intend that the provisions of **sections 3 to 70, chapter 1, Oregon Laws 2015** [this Act], together with [the] other provisions of [existing] state law, will:

(a) Prevent the distribution of marijuana to persons under 21 years of age;

(b) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs[,] and cartels;

(c) Prevent the diversion of marijuana from this state to other states;

(d) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(e) Prevent violence and the use of firearms in **association with** the cultivation and distribution of marijuana;

(f) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(g) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(h) Prevent the possession and use of marijuana on federal property.

SECTION 36. Section 2, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 2. [(1) Sections 3 to 70 of this Act are added to and made a part of the Oregon Revised Statutes.]

[(2) Section 71 is added to and made a part of ORS chapter 317.]

[(3)] (1) Section 72, **chapter 1, Oregon Laws 2015**, is added to and made a part of ORS chapter 475.

[(4)] (2) Section 73, **chapter 1, Oregon Laws 2015**, is added to and made a part of ORS chapter 811.

SECTION 37. Section 3, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 3. Sections 3 to 70, **chapter 1, Oregon Laws 2015**, [of this Act] shall be known and may be cited as the Control[, and Regulation[, and Taxation]] of Marijuana [and Industrial Hemp] Act.

SECTION 38. Section 4, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 4. Sections 3 to 70, **chapter 1, Oregon Laws 2015**, [of this Act] may not be construed:

(1) To amend or affect [in any way any] state or federal law pertaining to employment matters;

(2) To amend or affect [in any way any] state or federal law pertaining to landlord-tenant matters;

(3) To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession[, or use of marijuana to the extent necessary to satisfy federal requirements for the grant;

(4) To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession[, or use of marijuana to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;

(5) To require a person to violate a federal law;

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law; or

(7) To amend or affect [in any way] the Oregon Medical Marijuana Act.

SECTION 39. Section 6, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 6. (1) Sections 7 to 44 and 60 to 62, **chapter 1, Oregon Laws 2015**, [of this Act] do not apply:

(a) To the production, processing[, keeping,] or storage of homegrown marijuana at a household by one or more persons 21 years of age and older, if the total **amount** of homegrown marijuana at the household does not exceed four marijuana plants and eight ounces of usable marijuana at [a given] **any** time.

(b) To the making, processing[, keeping,] or storage of homemade [marijuana] **cannabinoid** products at a household by one or more persons 21 years of age and older, if the total **amount** of homemade [marijuana] **cannabinoid** products at the household does not exceed [sixteen] **16** ounces in solid form at [a given] **any** time.

(c) To the making, processing[, keeping,] or storage of homemade [marijuana] **cannabinoid** products at a household by one or more persons 21 years of age and older, if the total **amount** of homemade [marijuana] **cannabinoid** products at the household does not exceed [seventy-two] **72** ounces in liquid form at [a given] **any** time.

(d) To the making, processing or storage of homemade cannabinoid concentrates at a household by one or more persons 21 years of age or older, if the total amount of homemade cannabinoid concentrates at the household does not exceed 16 ounces at any time.

[(d)] (e) To the delivery of not more than one ounce of homegrown marijuana at a [given] time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

~~[(e)]~~ **(f)** To the delivery of not more than ~~[sixteen]~~ **16** ounces of homemade ~~[marijuana]~~ **cannabinoid** products in solid form at a ~~[given]~~ time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

~~[(f)]~~ **(g)** To the delivery of not more than ~~[seventy-two]~~ **72** ounces of homemade ~~[marijuana]~~ **cannabinoid** products in liquid form at a ~~[given]~~ time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(h) To the delivery of not more than 16 ounces of cannabinoid concentrates at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(2) Sections 7 to 70, **chapter 1, Oregon Laws 2015** *[of this Act]*:

(a) Do not apply to the extent a person acts within the scope of and in compliance with the Oregon Medical Marijuana Act; ~~[or]~~ **and**

(b) Do not amend or affect *[in any way the function,]* duties, **functions** and powers of the Oregon Health Authority under the Oregon Medical Marijuana Act.

SECTION 40. Section 10, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 10. *[No member of the Oregon Liquor Control Commission, the State Department of Agriculture, or the Oregon Health Authority may be sued for doing or omitting to do any act in the performance of duties as prescribed in sections 3 to 70 of this Act.] A person may not sue the Oregon Liquor Control Commission or a member of the commission, the State Department of Agriculture or the Oregon Health Authority, or any employee of the commission, department or authority, for performing or omitting to perform any duty, function or power of the commission, department or authority set forth in sections 3 to 70, chapter 1, Oregon Laws 2015, or in any other law of this state requiring the commission, department or authority to perform a duty, function or power related to marijuana.*

SECTION 41. Section 11, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 11. (1) *[Neither]* The Oregon Liquor Control Commission, the State Department of Agriculture~~], nor]~~ **and** the Oregon Health Authority may **not** refuse to perform any duty under sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* on the basis that manufacturing, distributing, dispensing, possessing~~],~~ or using marijuana is prohibited by federal law.

(2) The commission may not revoke or refuse to issue or renew a license under sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* on the basis that manufacturing, distributing, dispensing, possessing~~],~~ or using marijuana is prohibited by federal law.

SECTION 42. Section 12, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 12. *[No]* A contract *[shall be]* **is not** unenforceable on the basis that manufacturing, distributing, dispensing, possessing~~],~~ or using marijuana is prohibited by federal law.

SECTION 43. Section 13, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 13. Licensees and licensee representatives may produce, deliver~~],~~ and possess marijuana items subject to the provisions of sections 3 to 70, **chapter 1, Oregon Laws 2015** *[of this Act]*. The production, delivery~~],~~ and possession of marijuana items by a licensee or a licensee representative in compliance with sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act shall]* **does not** constitute a criminal or civil offense under *[Oregon law]* **the laws of this state**.

SECTION 44. Section 14, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 14. *[No]* A licensee or licensee representative may **not** sell or deliver *[any marijuana items to any]* **a marijuana item to a person under 21 years of age**.

SECTION 45. Section 17, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 17. (1) *[No]* A person *[shall]* **may not** produce any piece of identification that would falsely indicate the person's age.

(2) If a piece of identification is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of *[marijuana items]* **a marijuana item** to a person *[not having reached]* **under** 21 years of age, the licensee or licensee representative *[shall be found to have committed no crime or other wrong]* **is not guilty of any offense prohibiting a person from selling or serving a marijuana item to a person under 21 years of age unless**

it is demonstrated that a reasonable person would have determined that the identification exhibited **by the person under 21 years of age** was altered or did not accurately describe the person **under 21 years of age** to whom the marijuana *[items were]* **item was** sold or served.

SECTION 46. Section 23, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 23. (1) The Oregon Liquor Control Commission has the right after 72 hours' notice to the owner or the agent of the owner to make an examination of the books and may at any time make an examination of the premises of any person licensed under sections 3 to 70, **chapter 1, Oregon Laws 2015** *[of this Act]*, for the purpose of determining compliance with sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* and the rules of the commission.

(2) The commission *[shall]* **may** not require the books of *[any]* **a** licensee to be maintained on the premises of the licensee.

(3) **This section does not authorize the commission to make an examination of the premises of a person registered under ORS 475.300 to 475.346.**

SECTION 47. Section 24, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 24. The same person may hold one or more production licenses, one or more processor licenses, one or more wholesale licenses[,] and one or more retail licenses.

SECTION 48. Section 45, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 45. (1) **A licensee or licensee representative may not import** marijuana items *[may not be imported]* into this state or *[exported]* **export marijuana items** from this state *[by any licensee or licensee representative]*.

(2) A violation of subsection (1) of this section is a:

(a) Class C felony, if the importation or exportation is for consideration; or

(b) Class A misdemeanor, if the importation or exportation is not for consideration.

SECTION 49. Section 46, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 46. *[Marijuana items]* **A marijuana item** may not be given as a prize, premium or consideration for a lottery, contest, game of chance *[or]*, **game of skill**[,] or competition of any kind.

SECTION 50. Section 47, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 47. (1) A person may not sell, give or otherwise make available any marijuana *[items]* **item** to *[any]* **a** person who is visibly intoxicated.

(2)(a) A person who exercises control over private real property may not knowingly allow *[any other]* **a** person under the age of 21 years to consume marijuana items on the property, or allow any other person under the age of 21 years to remain on the property if the person under the age of 21 years consumes marijuana items on the property.

(b) This subsection:

(A) Applies only to a person who is present and in control of the location at the time the consumption occurs; and

(B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual **housing** unit in which the owner or agent resides.

SECTION 51. Section 48, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 48. (1) *[No]* **A** person *[shall]* **may not** make false representations or statements to the Oregon Liquor Control Commission in order to induce or prevent action by the commission.

(2) *[No]* **A** licensee of the commission *[shall]* **may not** maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious marijuana items.

(3) *[No]* **A** licensee of the commission *[shall]* **may not** misrepresent to a customer or to the public any marijuana items.

SECTION 52. Section 50, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 50. (1) *[No marijuana items shall]* **A marijuana item may not** be sold or offered for sale within this state unless *[such marijuana items comply]* **the marijuana item complies** with the minimum standards *[fixed pursuant to law]* **prescribed by the statutory laws of this state.**

[(2) The Oregon Liquor Control Commission may require a marijuana producer, marijuana processor, or marijuana wholesaler to provide a laboratory analysis demonstrating to the satisfaction of the commission that particular marijuana items comply with the minimum standards in this state.]

[3] *No marijuana items offered for sale within this state may be altered or tampered with in any way by any person not licensed to do so by the commission.*]

[4] (2) The **Oregon Liquor Control** Commission may prohibit the sale of *[any marijuana items]* **a marijuana item by a marijuana retailer** for a reasonable period of time *[while it is determining]* **for the purpose of determining** whether the marijuana *[items comply]* **item complies** with **the** minimum standards *[in this]* **prescribed by the statutory laws of this state.**

SECTION 53. Section 51, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 51. (1) *[No]* **A** licensee *[shall]* **may not** use or allow the use of *[any]* **a** mark or label on the container of *[any marijuana items which are]* **a marijuana item that is** kept for sale[,] if the container does not precisely and clearly indicate the nature of *[its]* **the container's** contents or in any way might deceive *[any]* **a** customer as to the nature, composition, quantity, age or quality of *[such]* **the** marijuana *[items]* **item.**

(2) The Oregon Liquor Control Commission may prohibit *[any]* **a** licensee from selling any brand of marijuana *[items which]* **item that** in *[its]* **the commission's** judgment is deceptively labeled or branded as to content[,] or contains injurious or adulterated ingredients.

SECTION 54. Section 53, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 53. (1) Except for **a** licensed marijuana *[producers and their]* **producer and the producer's** licensee *[representatives, no]* **representative, a** licensee may **not** possess a mature marijuana plant.

(2) *[No]* **A** licensee may **not** sell a mature marijuana plant.

SECTION 55. Section 56, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 56. (1) *[No]* **A** person may **not** produce, process[, *keep*,] or store homegrown marijuana or homemade *[marijuana]* **cannabinoid** products **or cannabinoid concentrates** if the homegrown marijuana or homemade *[marijuana]* **cannabinoid** products **or cannabinoid concentrates** can be readily seen by normal unaided vision from a public place.

(2) A violation of subsection (1) of this section is a Class B violation.

SECTION 56. Section 57, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 57. *[No]* **A** person may **not** produce, process[, *keep*,] or store homemade *[marijuana]* **cannabinoid** extracts.

SECTION 57. Section 58, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 58. *[Sections 3 to 70 of this Act,]* **The provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, are** designed to operate uniformly throughout the state[, *shall be*] **and are** paramount and superior to and *[shall]* fully replace and supersede any *[and all]* municipal charter *[enactments]* **amendment** or local *[ordinances]* **ordinance** inconsistent with *[it]* **the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015.** *[Such charters]* **Amendments** and ordinances **that are inconsistent with the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015,** *[hereby]* are repealed.

SECTION 58. Section 60, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 60. (1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question whether the operation of licensed premises *[shall]* **should** be prohibited in the city or county.

(2) Except as **otherwise** provided in *[subsections (3), (4) and (5) of]* this section, the requirements for preparing, circulating and filing a petition under this section:

(a) In the case of a city, *[shall]* **must** be as provided for an initiative petition under ORS 250.265 to 250.346.

(b) In the case of a county, *[shall]* **must** be as provided for an initiative petition under ORS 250.165 to 250.235.

(3) A petition under *[subsection (2) of]* this section:

(a) Must be filed not less than 60 days before the day of the election; and

(b) Must be signed by not less than 10 percent of the electors registered in the city or county.

(4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and

filing a petition under this section *[shall]* **must** be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.

(5) *[No]* A signature is **not** valid unless signed within 180 days before the petition is filed.

(6) An election under this section *[shall]* **must** be held at the time of the next statewide general election.

(7) An election under this section *[shall]* **must** be conducted under ORS chapters 246 to 260.

SECTION 59. Section 61, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 61. Section 60, **chapter 1, Oregon Laws 2015**, does *[of this Act shall]* not prevent any person residing in the county or city from having, for personal use, a marijuana *[items]* **item** purchased from a marijuana *[retailers duly]* **retailer** licensed under **section 22, chapter 1, Oregon Laws 2015** *[this Act]*.

SECTION 60. Section 63, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 63. The state police, sheriffs*[,] constables and all* **and** police officers *[within the State of Oregon shall]* **of this state may** enforce sections 3 to *[30 of this Act and sections 45 to]* **70, chapter 1, Oregon Laws 2015**, *[of this Act]* and assist the Oregon Liquor Control Commission in detecting violations of sections 3 to *[30 of this Act and sections 45 to]* **70, chapter 1, Oregon Laws 2015**, *[of this Act]* and apprehending offenders. *[Each such]* **An** enforcing officer *[having]* **who has** notice, knowledge or reasonable ground of suspicion of *[any]* a violation of sections 3 to *[30 of this Act or sections 45 to]* **70, chapter 1, Oregon Laws 2015**, *[of this Act]* shall immediately notify the district attorney*[,]* and furnish the district attorney with names and addresses of any witnesses, or other information within the officer's knowledge, of *[such]* **the** violation.

SECTION 61. Section 64, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 64. (1) *[Whenever any]* **When an** officer arrests *[any]* a person for violation of sections 3 to *[30 of this Act or sections 45 to]* **70, chapter 1, Oregon Laws 2015** *[of this Act]*, the officer may take into possession all marijuana items*[,]* and other property *[which]* **that** the person so arrested has in possession, or **that is** on the premises, *[which]* **that** is apparently being used in violation of sections 3 to *[30 of this Act or sections 45 to]* **70, chapter 1, Oregon Laws 2015** *[of this Act]*.

(2) If *[the]* a person *[so]* arrested **as described in this section** is convicted, and *[it is found]* **the court finds** that the marijuana items*[,]* and other property *[has]* **have** been used in violation of *[Oregon law]* **the laws of this state:**

(a) The marijuana items *[shall]* **must** be forfeited to an appropriate state or local law enforcement agency*[,]* and *[shall]* **must** be delivered by the court or officer, **at the direction of the court,** to the law enforcement agency; and

(b) Subject to other applicable law, the other property *[shall]* **must** be forfeited to the Oregon Liquor Control Commission, and *[shall]* **must** be delivered by the court or officer to the commission.

(3) The commission is authorized to destroy or make such other disposition of any property it receives under *[paragraph (b) of]* subsection (2)(b) of this section as it considers to be in the public interest. In any such case, all such property, including *[lockers, chairs, tables, cash registers, music devices, gambling devices,]* furniture, furnishings, equipment and facilities for the storing, serving or using of marijuana items *[shall]* **must** be confiscated and forfeited to the state, and the clear proceeds *[shall]* **must** be deposited with the State Treasury in the Common School Fund *[in the manner provided in this section]*.

SECTION 62. Section 65, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 65. The county courts, district attorneys and municipal authorities, immediately upon the conviction of any licensee of the Oregon Liquor Control Commission of a violation of any provision of sections 3 to *[30 of this Act or sections 45 to]* **70, chapter 1, Oregon Laws 2015**, *[of this Act]* or the violation of any other law of this state or ordinance of any municipality *[therein]* **in this state**, in which violation marijuana had any part, shall notify the commission *[thereof. Such officials]* **of the conviction. The county courts, district attorneys and municipal authorities** shall notify the commission of any acts, practices or other conduct of *[any such]* a licensee *[which]* **convicted as described in this section that** may be subversive of the general welfare or contrary

to the spirit of **sections 3 to 70, chapter 1, Oregon Laws 2015**, *[this Act]* and shall recommend such action on the part of the commission as will remove the evil.

SECTION 63. Section 66, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 66. Any room, house, building, boat, structure or place of any kind where marijuana items are sold, manufactured, bartered or given away in violation of *[Oregon law]* **the laws of this state**, or where persons are permitted to resort for the purpose of using marijuana items in violation of *[Oregon law]* **the laws of this state**, or any place where marijuana items are kept for sale, barter or gift in violation of *[Oregon law]* **the laws of this state**, and all marijuana items or property subject to confiscation under section 64, **chapter 1, Oregon Laws 2015**, *[of this Act]* kept and used in such a place, *[is]* **are** a common nuisance. *[Any]* **A** person who maintains or assists in maintaining *[such]* **the** common nuisance or knowingly suffers or permits *[such]* **the** nuisance to exist in any place of which the person is the owner, manager or lessor, *[shall be]* **is** guilty of a violation of sections 3 to *[30 of this Act and sections 45 to]* **70, chapter 1, Oregon Laws 2015** *[of this Act]*.

SECTION 64. Section 67, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 67. If it is proved that the owner of *[any]* **a** building or premises knowingly has *[suffered the same to be used or]* **used the building or premises or allowed the building or premises to be** occupied for the manufacture, sale or possession of marijuana items~~,~~ contrary to the provisions of sections 3 to *[30 of this Act or sections 45 to]* **70, chapter 1, Oregon Laws 2015** *[of this Act]*, *[such]* **the** building or premises are subject to a lien for, and may be sold to pay all fines and costs assessed against their occupants for, any violation of sections 3 to *[30 of this Act or sections 45 to]* **70, chapter 1, Oregon Laws 2015** *[of this Act]*. The lien *[shall]* **must** be enforced immediately by civil action in any court *[having]* **that has** jurisdiction, by the district attorney of the county *[wherein]* **in which** the building or premises are located.

SECTION 65. Section 68, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 68. In case of invasion, disaster, insurrection~~,~~ **or** riot, or imminent danger *[thereof]* **of invasion, disaster, insurrection or riot**, the Governor may, for the duration of *[such]* **the** invasion, disaster, insurrection~~,~~ **or** riot, or imminent danger *[thereof]*, immediately suspend without notice any license in the area involved granted under sections 3 to *[30 of this Act or sections 45 to]* **70, chapter 1, Oregon Laws 2015** *[of this Act]*.

SECTION 66. Section 69, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 69. (1) Except where other punishment is specifically provided for in sections 3 to 70, **chapter 1, Oregon Laws 2015** *[of this Act]*, violation of any provision of sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* is a Class A misdemeanor.

[(2) A violation of subsection (1) of section 40 of this Act is a Class B misdemeanor.]

[(3)] (2) Subject to ORS 153.022, violation of *[any regulation promulgated]* **a rule adopted** under section 7 (2)(d), **chapter 1, Oregon Laws 2015**, *[paragraph (e) of subsection (2) of section 7 of this Act]* is a Class C violation.

SECTION 67. Section 70, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 70. If any *[sections, subsections, paragraphs, phrases, or words]* **section, subsection, paragraph, phrase or word** of sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act shall be]* **is held to be** unconstitutional, void~~,~~ or illegal, either on *[their]* **its** face or as applied, *[this shall]* **that holding does** not affect the applicability, constitutionality~~,~~ or legality of any other *[sections, subsections, paragraphs, phrases, and words]* **section, subsection, paragraph, phrase or word** of sections 3 to 70, **chapter 1, Oregon Laws 2015** *[of this Act]*. To that end, the sections, subsections, paragraphs, phrases~~,~~ and words of sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* are intended to be severable. It is hereby declared to be the intent of **the people of this state in adopting** sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* that sections 3 to 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* would have been adopted had such unconstitutional, void~~,~~ or illegal sections, subsections, paragraphs, phrases~~,~~ or words, if any, not been included in sections 3 to 70, **chapter 1, Oregon Laws 2015** *[of this Act]*.

SECTION 68. Section 72, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 72. As used in the following statutes and any rule adopted *[thereunder]* **under the following statutes**, the term “controlled substance” *[shall]* **does** not include marijuana:

(1) ORS 475.125 *[to ORS]*, **475.135, 475.145, 475.155 and 475.165** *[(registration with the State Board of Pharmacy)]*.

(2) ORS 475.175 *[to ORS]*, **475.185, 475.188 and 475.190** *[(records)]*.

SECTION 69. Section 32, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 32. (1) As used in sections 31 to 44, **chapter 1, Oregon Laws 2015** *[of this Act]*, “sale” or “sold” means any transfer, exchange or barter, in any manner or by any means, for a consideration, and includes *[and means]* all sales made by any person. It includes a gift by a person engaged in the business of selling marijuana, for advertising, as a means of evading sections 31 to 44, **chapter 1, Oregon Laws 2015** *[of this Act]*, or for any other purpose.

(2) If a marijuana producer also holds one or more processor licenses, one or more wholesale licenses[,] or one or more retail licenses, a sale of marijuana flowers, marijuana leaves[,] or immature marijuana plants will be deemed to occur if and when the marijuana producer processes or takes any other action with respect to *[such]* **the** marijuana flowers, marijuana leaves[,] or immature marijuana plants for which a processor license, wholesale license[,] or retail license is required, regardless of whether the marijuana producer continues to own or possess the marijuana flowers, marijuana leaves[,] or immature marijuana plants.

SECTION 70. Section 33, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 33. (1) A tax is imposed upon the privilege of engaging in business as a marijuana producer at the rate of:

- (a) \$35 per ounce on all marijuana flowers;
- (b) \$10 per ounce on all marijuana leaves; and
- (c) \$5 per immature marijuana plant.

(2) The rates of tax imposed by this section upon marijuana flowers and marijuana leaves apply proportionately to quantities of less than one ounce.

(3) The tax imposed by this section *[shall]* **must** be measured by the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants produced and sold by any marijuana producer. The taxes specified in this section *[shall]* **must** be levied and assessed to the marijuana producer at the time of the first sale of the marijuana flowers, marijuana leaves[,] and immature marijuana plants by the marijuana producer.

(4) For reporting periods beginning on or after July 1, 2017, the rates of tax under subsection (1) of this section *[shall]* **must** be adjusted for each biennium according to the cost-of-living adjustment for the calendar year. The Oregon Liquor Control Commission shall recompute the rates for each biennium by adding to each rate in subsection (1) of this section the product obtained by multiplying the rate by a factor that is equal to 0.25 multiplied by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2015.

(5) The commission shall regularly review the rates of tax under subsection (1) of this section and make recommendations to the Legislative Assembly regarding appropriate adjustments to the rates that will further the purposes of:

- (a) Maximizing net revenue;
- (b) Minimizing the illegal marijuana industry under *[Oregon law]* **the laws of this state**; and
- (c) Discouraging the use of marijuana by minors under 21 years of age.

SECTION 71. Section 34, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 34. (1) The privilege tax imposed by section 33, **chapter 1, Oregon Laws 2015**, *[of this Act shall]* **must** be paid to the Oregon Liquor Control Commission. The taxes covering the periods for which statements are required to be rendered by section 35, **chapter 1, Oregon Laws 2015**, *[of this Act shall]* **must** be paid before the time for filing such statements expires. If not so paid, a penalty of 10 percent and interest at the rate of one percent a month or fraction of a month

[shall] **must** be added and collected. The commission may refund any tax payment imposed upon or paid in error by any licensee.

(2) The commission may waive any interest or penalty assessed to a marijuana producer subject to the tax imposed under section 33, **chapter 1, Oregon Laws 2015**, [of this Act] if the commission, in its discretion, determines that the marijuana producer has made a good faith attempt to comply with the requirements of sections 31 to 44, **chapter 1, Oregon Laws 2015** [of this Act].

(3) Except in the case of fraud, the commission may not assess any interest or penalty on any tax due under section 33, **chapter 1, Oregon Laws 2015**, [of this Act] following the expiration of 36 months from the date on which was filed the statement required under section 35, **chapter 1, Oregon Laws 2015**, [of this Act] reporting the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants upon which the tax is due.

(4) A marijuana producer may appeal a tax imposed under section 33, **chapter 1, Oregon Laws 2015**, [of this Act] in the manner of a contested case under ORS chapter 183.

SECTION 72. Section 35, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 35. On or before the 20th day of each month, every marijuana producer shall file with the Oregon Liquor Control Commission a statement of the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants sold by the marijuana producer during the preceding calendar month.

SECTION 73. Section 36, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 36. If any marijuana producer fails, neglects or refuses to file a statement required by section 35, **chapter 1, Oregon Laws 2015**, [of this Act] or files a false statement, the Oregon Liquor Control Commission shall estimate the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants sold by the marijuana producer and assess the privilege taxes [thereon] **on the estimated quantities**. The marijuana producer [shall] **must** be estopped from complaining of the quantities so estimated.

SECTION 74. Section 37, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 37. The privilege tax required to be paid by section 33, **chapter 1, Oregon Laws 2015**, [of this Act] constitutes a lien upon, and has the effect of an execution duly levied against, any and all property of the marijuana producer, attaching at the time the marijuana flowers, marijuana leaves[,] and immature marijuana plants subject to the tax were sold, and remaining until the tax is paid. The lien created by this section is paramount to all private liens or encumbrances.

SECTION 75. Section 38, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 38. Every marijuana producer shall keep a complete and accurate record of all sales of marijuana flowers, marijuana leaves[,] and immature marijuana plants, and a complete and accurate record of the number of ounces of marijuana flowers produced, the number of ounces of marijuana leaves produced, the number of immature marijuana plants produced[,] and the dates of production. The records [shall] **must** be in such form and contain such other information as the Oregon Liquor Control Commission may prescribe.

SECTION 76. Section 39, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 39. (1) The Oregon Liquor Control Commission may, at any time, examine the books and records of any marijuana producer[,] and may appoint auditors, investigators and other employees that the commission considers necessary to enforce its powers and perform its duties under sections 31 to 44, **chapter 1, Oregon Laws 2015** [of this Act].

(2) Every marijuana producer shall maintain and keep for two years all records, books and accounts required by sections 31 to 44, **chapter 1, Oregon Laws 2015**, [of this Act] and shall provide copies of those records, books and accounts to the commission when requested by the commission.

SECTION 77. Section 40, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 40. (1) [No] A marijuana producer [shall] **may not**:

(a) Fail to pay the privilege tax prescribed in section 33, **chapter 1, Oregon Laws 2015**, [of this Act] when it is due; or

(b) Falsify the statement required by section 35, **chapter 1, Oregon Laws 2015** [of this Act].

(2) [No] A person [shall] **may not**:

(a) Refuse to permit the Oregon Liquor Control Commission or any of its representatives to make an inspection of the books and records authorized by sections 38 and 39, **chapter 1, Oregon Laws 2015** [of this Act];

(b) Fail to keep books of account prescribed by the commission or required by sections 31 to 44, **chapter 1, Oregon Laws 2015** [of this Act];

(c) Fail to preserve the books for two years for inspection of the commission; or

(d) Alter, cancel or obliterate entries in the books of account for the purpose of falsifying any record required by sections 31 to 44, **chapter 1, Oregon Laws 2015**, [of this Act] to be made, maintained or preserved.

SECTION 78. Section 41, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 41. Sections 31 to 44, **chapter 1, Oregon Laws 2015**, [of this Act] do not apply to commerce with foreign nations or commerce with the several states, except [in so far] **insofar** as the same may be permitted under the Constitution and laws of the United States.

SECTION 79. Section 43, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 43. (1) All money collected by the Oregon Liquor Control Commission under sections **31 to 44, chapter 1, Oregon Laws 2015**, [3 to 70 of this Act shall] **must** be remitted to the State Treasurer, who shall credit it to a suspense account of the commission. Whenever the commission determines that moneys have been received by it in excess of the amount legally due and payable to the commission or that it has received money [to] **in** which it has no legal interest, or that any license fee or deposit is properly refundable, the commission is authorized and directed to refund such money by check drawn upon the State Treasurer and charged to the suspense account of the commission. After withholding refundable license fees and such sum, not to exceed \$250,000, as it considers necessary as a revolving fund for a working cash balance for the purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items [which] **that** are payable in cash immediately upon presentation, the commission shall direct the State Treasurer to transfer the money remaining in the suspense account to the Oregon Marijuana Account established under section 44, **chapter 1, Oregon Laws 2015** [of this Act]. Moneys in the Oregon Marijuana Account are continuously appropriated to the commission to be distributed and used as required or allowed by [Oregon law] **the laws of this state**.

(2) All necessary expenditures of the commission incurred in carrying out sections 3 to 70, **chapter 1, Oregon Laws 2015** [of this Act], including [such] sums necessary to reimburse the \$250,000 revolving fund, [shall] **must** be paid from the Oregon Marijuana Account.

OREGON MEDICAL MARIJUANA ACT OPERATIVE MARCH 1, 2016

(Definitions)

SECTION 80. ORS 475.302 is amended to read:

475.302. As used in ORS 475.300 to 475.346:

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

[(2) "Authority" means the Oregon Health Authority.]

(2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(3) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

(a) A mechanical extraction process;

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

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

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

(4) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried leaves or flowers of marijuana have been incorporated.

(5) “Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:

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

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

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

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

(a) Cancer, glaucoma, agitation incident to Alzheimer’s disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of [these] **those** medical conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

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

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

(c) Post-traumatic stress disorder; or

(d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the **Oregon Health** Authority by rule or approved by the authority pursuant to a petition [submitted] **filed** under ORS 475.334.

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

(b) “Delivery” does not include transfer of[:]

[(A)] marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer[:].

[(B)] *Usable marijuana or immature marijuana plants from a registry identification cardholder, the designated primary caregiver of a registry identification cardholder or a marijuana grow site to a medical marijuana facility registered under ORS 475.314; or]*

[(C)] *Usable marijuana or immature marijuana plants from a medical marijuana facility registered under ORS 475.314 to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.]*

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

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

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

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

(b) “Designated primary caregiver” does not include [the] a person’s attending physician.

[(6)] “*Marijuana*” has the meaning given that term in ORS 475.005.]

(9) “**High heat**” means a temperature exceeding 180 degrees.

(10) “**Immature marijuana plant**” means a marijuana plant that is not flowering.

(11)(a) “**Marijuana**” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) “**Marijuana**” does not include industrial hemp, as defined in ORS 571.300.

[(7)] (12) “Marijuana grow site” means a location registered under ORS 475.304 where marijuana is produced for use by a registry identification cardholder.

(13) “**Marijuana processing site**” means a **marijuana processing site registered under section 85 of this 2015 Act or a site for which an applicant has submitted an application for registration under section 85 of this 2015 Act.**

(14) “**Mature marijuana plant**” means a **marijuana plant that is not an immature marijuana plant.**

(15)(a) “**Medical cannabinoid product**” means a **cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to a person’s skin or hair, that contains cannabinoids or dried leaves or flowers of marijuana.**

(b) “**Medical cannabinoid product**” does not include:

(A) **Usable marijuana by itself;**

(B) **A cannabinoid concentrate by itself;**

(C) **A cannabinoid extract by itself; or**

(D) **Industrial hemp, as defined in ORS 571.300.**

(16) “**Medical marijuana dispensary**” means a **medical marijuana dispensary registered under ORS 475.314 or a site for which an applicant has submitted an application for registration under ORS 475.314.**

[(8)] (17) “**Medical use of marijuana**” means the production, **processing**, possession, delivery[, *distribution*] or administration of marijuana, or **use of** paraphernalia used to administer marijuana, [*as necessary for the exclusive benefit of a person*] to mitigate the symptoms or effects of [*the person’s*] a debilitating medical condition.

[(9)] “*Production*” has the meaning given that term in ORS 475.005.]

(18) “**Person designated to produce marijuana by a registry identification cardholder**” means a **person designated to produce marijuana by a registry identification cardholder under ORS 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.**

(19) “**Process**” means the **compounding or conversion of marijuana into medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts.**

(20) “**Production**” means:

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

(b) **Drying marijuana leaves or flowers.**

[(10)] (21) “**Registry identification card**” means a document issued by the **Oregon Health Authority under ORS 475.309** that identifies a person authorized to engage in the medical use of marijuana and, if the person has a designated primary caregiver under ORS 475.312, the person’s designated primary caregiver.

(22) “**Registry identification cardholder**” means a **person to whom a registry identification card has been issued under ORS 475.309.**

[(11)] (23)(a) “**Usable marijuana**” means the dried leaves and flowers of [*the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed in ORS 475.300 to 475.346*] **marijuana.**

(b) “**Usable marijuana**” does not include:

(A) **The seeds, stalks and roots of [*the plant.*] marijuana; or**

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

[(12)] (24) “**Written documentation**” means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person’s relevant medical records.

**(Registry Identification Cardholders
and Designated Primary Caregivers)**

SECTION 80a. ORS 475.309 is amended to read:

475.309. *[(1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or assisting in the medical use of marijuana is excepted from the criminal laws of the state for possession, delivery or production of marijuana, aiding and abetting another in the possession, delivery or production of marijuana or any other criminal offense in which possession, delivery or production of marijuana is an element if the following conditions have been satisfied:]*

[(a)(A) The person holds a registry identification card issued pursuant to this section, has applied for a registry identification card pursuant to subsection (9) of this section, is the designated primary caregiver of the cardholder or applicant, or is the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304; and]

[(B) The person who has a debilitating medical condition, the person's primary caregiver and the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for medical use in amounts allowed under ORS 475.320; or]

[(b) The person is responsible for or employed by a medical marijuana facility registered under ORS 475.314 and does not commit any of the acts described in this subsection anywhere other than at the medical marijuana facility.]

[(2) The Oregon Health Authority shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section. Except as provided in subsection (3) of this section, the authority shall issue a registry identification card to any person who pays a fee in the amount established by the authority and provides the following:]

[(a) Valid, written documentation from the person's attending physician stating that the person has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition;]

[(b) The name, address and date of birth of the person;]

[(c) The name, address and telephone number of the person's attending physician;]

[(d) The name and address of the person's designated primary caregiver, if the person has designated a primary caregiver at the time of application; and]

[(e) A written statement that indicates whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location.]

[(3) The authority shall issue a registry identification card to a person who is under 18 years of age if the person submits the materials required under subsection (2) of this section, and the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement that:]

[(a) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;]

[(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;]

[(c) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and]

[(d) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.]

[(4) A person applying for a registry identification card pursuant to this section may submit the information required in this section to a county health department for transmittal to the authority. A county health department that receives the information pursuant to this subsection shall transmit the information to the authority within five days of receipt of the information. Information received by a

county health department pursuant to this subsection shall be confidential and not subject to disclosure, except as required to transmit the information to the authority.]

[(5)(a) The authority shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within thirty days of receipt of the application.]

[(b) In addition to the authority granted to the authority under ORS 475.316 to deny an application, the authority may deny an application for the following reasons:]

[(A) The applicant did not provide the information required pursuant to this section to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition, as provided in subsections (2) and (3) of this section;]

[(B) The authority determines that the information provided was falsified; or]

[(C) The applicant has been prohibited by a court order from obtaining a registry identification card.]

[(c) Denial of a registry identification card shall be considered a final authority action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of 18 years of age whose application has been denied, the person's parent or legal guardian, shall have standing to contest the authority's action.]

[(d) Any person whose application has been denied may not reapply for six months from the date of the denial, unless so authorized by the authority or a court of competent jurisdiction.]

[(6)(a) If the authority has verified the information submitted pursuant to subsections (2) and (3) of this section and none of the reasons for denial listed in subsection (5)(b) of this section is applicable, the authority shall issue a serially numbered registry identification card within five days of verification of the information. The registry identification card shall state:]

[(A) The cardholder's name, address and date of birth;]

[(B) The date of issuance and expiration date of the registry identification card;]

[(C) The name and address of the person's designated primary caregiver, if any;]

[(D) Whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location; and]

[(E) Any other information that the authority may specify by rule.]

[(b) When the person to whom the authority has issued a registry identification card pursuant to this section has specified a designated primary caregiver, the authority shall issue an identification card to the designated primary caregiver. The primary caregiver's registry identification card shall contain the information provided in paragraph (a) of this subsection.]

[(7)(a) A person who possesses a registry identification card shall:]

[(A) Notify the authority of any change in the person's name, address, attending physician or designated primary caregiver.]

[(B) If applicable, notify the designated primary caregiver of the cardholder, the person responsible for the marijuana grow site that produces marijuana for the cardholder and any person responsible for a medical marijuana facility that transfers usable marijuana or immature marijuana plants to the cardholder under ORS 475.314 of any change in status including, but not limited to:]

[(i) The assignment of another individual as the designated primary caregiver of the cardholder;]

[(ii) The assignment of another individual as the person responsible for a marijuana grow site producing marijuana for the cardholder; or]

[(iii) The end of the eligibility of the cardholder to hold a valid registry identification card.]

[(C) Annually submit to the authority:]

[(i) Updated written documentation from the cardholder's attending physician of the person's debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition; and]

[(ii) The name of the person's designated primary caregiver if a primary caregiver has been designated for the upcoming year.]

[(b) If a person who possesses a registry identification card fails to comply with this subsection, the card shall be deemed expired. If a registry identification card expires, the identification card of any designated primary caregiver of the cardholder shall also expire.]

[(8)(a) A person who possesses a registry identification card pursuant to this section and who has been diagnosed by the person's attending physician as no longer having a debilitating medical condition or whose attending physician has determined that the medical use of marijuana is contraindicated for the person's debilitating medical condition shall return the registry identification card and any other associated Oregon Medical Marijuana Program cards to the authority within 30 calendar days of notification of the diagnosis or notification of the contraindication.]

[(b) If, due to circumstances beyond the control of the registry identification cardholder, a cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has expired, the authority may grant the cardholder additional time to obtain a second opinion before requiring the cardholder to return the registry identification card and any associated cards.]

[(9) A person who has applied for a registry identification card pursuant to this section but whose application has not yet been approved or denied, and who is contacted by any law enforcement officer in connection with the person's administration, possession, delivery or production of marijuana for medical use may provide to the law enforcement officer a copy of the written documentation submitted to the authority pursuant to subsection (2) or (3) of this section and proof of the date of mailing or other transmission of the documentation to the authority. This documentation shall have the same legal effect as a registry identification card until such time as the person receives notification that the application has been approved or denied.]

[(10)(a) A registry identification cardholder has the primary responsibility of notifying the designated primary caregiver, the person responsible for the marijuana grow site that produces marijuana for the cardholder and any person responsible for a medical marijuana facility that transfers usable marijuana or immature marijuana plants to the cardholder under ORS 475.314 of any change in status of the cardholder.]

[(b) If the authority is notified by the cardholder that a primary caregiver or person responsible for a marijuana grow site has changed, the authority shall notify the primary caregiver or the person responsible for the marijuana grow site by mail at the address of record confirming the change in status and informing the caregiver or person responsible for the marijuana grow site that their card is no longer valid and must be returned to the authority.]

[(11) The authority shall revoke the registry identification card of a cardholder if a court has issued an order that prohibits the cardholder from participating in the medical use of marijuana or otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346. The cardholder shall return the registry identification card to the authority within seven calendar days of notification of the revocation. If the cardholder is a patient, the patient shall return the patient's card and all other associated Oregon Medical Marijuana Program cards.]

[(12) The authority shall revoke the registration of a medical marijuana facility registered under ORS 475.314 if a court has issued an order that prohibits the person responsible for the medical marijuana facility from participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346.]

[(13) The authority and employees and agents of the authority acting within the course and scope of their employment are immune from any civil liability that might be incurred or imposed for the performance of or failure to perform duties required by this section.]

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

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

(a) Written documentation from the applicant's attending physician stating that the attending physician has diagnosed the applicant as having a debilitating medical condition and

that the medical use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;

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

(c) The name, address and telephone number of the applicant's attending physician;

(d) Proof of residency, as required by the authority by rule;

(e) The name and address of the applicant's designated primary caregiver, if the applicant is designating a primary caregiver under ORS 475.312; and

(f) The information described in ORS 475.304 (2), if the applicant is applying to produce marijuana or designate another person under ORS 475.304 to produce marijuana.

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

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

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

(i) The applicant's attending physician has explained to the applicant and to the custodial parent or legal guardian the possible risks and benefits of the medical use of marijuana;

(ii) The custodial parent or legal guardian consents to the medical use of marijuana by the applicant;

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

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

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

(4) The authority shall approve or deny an application within 30 days after receiving the application.

(5)(a) If the authority approves an application, the authority shall issue a serially numbered registry identification card to the applicant within five days after approving the application. The registry identification card must include the following information:

(A) The registry identification cardholder's name, address and date of birth;

(B) The issuance date and expiration date of the registry identification card;

(C) If the registry identification cardholder designated a primary caregiver under ORS 475.312, the name and address of the registry identification cardholder's designated primary caregiver; and

(D) Any other information required by the authority by rule.

(b) If the registry identification cardholder designated a primary caregiver under ORS 475.312, the authority shall issue an identification card to the designated primary caregiver. The identification card must contain the information required by paragraph (a) of this subsection.

(6) A registry identification cardholder shall:

(a) In a form and manner prescribed by the authority, notify the authority of any change concerning the registry identification cardholder's:

(A) Name, address or attending physician;

(B) Designated primary caregiver, including the designation of a primary caregiver made at a time other than at the time of applying for or renewing a registry identification card; or

(C) Person responsible for a marijuana grow site, including the designation of a person responsible for a marijuana grow site made at a time other than at the time of applying for or renewing a registry identification card.

(b) Annually renew the registry identification card by paying a fee in an amount established by the authority by rule and submitting to the authority an application that contains the following information:

(A) Updated written documentation from the registry identification cardholder's attending physician stating that the registry identification cardholder still has a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the registry identification cardholder's debilitating medical condition;

(B) The information described in subsection (2)(b) to (f) of this section; and

(C) If the registry identification cardholder is under 18 years of age, a statement signed by the custodial parent or legal guardian of the registry identification cardholder that meets the requirements of subsection (3) of this section.

(7)(a) If the registry identification cardholder's attending physician determines that the registry identification cardholder no longer has a debilitating medical condition or determines that the medical use of marijuana is contraindicated for the registry identification cardholder's debilitating medical condition, the registry identification cardholder shall return the registry identification card to the authority within 30 calendar days after receiving notice of the determination.

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

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

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

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

(C) The authority determines that the applicant or registry identification cardholder violated a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.

(b) If a registry identification card is revoked, any associated identification card issued under subsection (5)(b) of this section, or marijuana grow site registration card issued under ORS 475.304 (6), shall also be revoked.

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

(9)(a) The authority may deny a designation of a primary caregiver made under ORS 475.312, or suspend or revoke an associated identification card issued under subsection (5)(b) of this section, if the authority determines that the designee or the registry identification cardholder violated a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.

(b) A person whose designation has been denied, or whose identification card has been revoked, under this subsection may not be designated as a primary caregiver under ORS 475.312 for six months from the date of the denial or revocation unless otherwise authorized by the authority.

(10) Notwithstanding subsection (2) or (6)(b) of this section, if an applicant for a registry identification card, or a registry identification cardholder applying for renewal of a registry identification card, submits to the authority proof of having served in the Armed Forces of the United States and of having been diagnosed with post-traumatic stress disorder, the au-

thority may not impose a fee that is greater than \$20 for the issuance or renewal of the registry identification card.

SECTION 80b. ORS 475.312 is amended to read:

475.312. (1) If a person who *[possesses a registry identification card issued pursuant to ORS 475.309]* **is applying for a registry identification card under ORS 475.309, or who is a registry identification cardholder,** chooses to *[have a designated]* **designate, or to change the designation of,** a primary caregiver, the person must *[designate the primary caregiver by including]* **include** the primary caregiver's name and address:

(a) On the person's application for a registry identification card;

[(b) In the annual updated information required under ORS 475.309; or]

(b) On the person's application to renew a registry identification card; or

(c) In a *[written,]* **form and manner prescribed by the authority, in a signed statement** *[submitted to]* **notifying** the Oregon Health Authority **of the designation.**

(2) A *[person described in this section]* **registry identification cardholder** may have only one designated primary caregiver at any given time.

(3) If a registry identification cardholder who previously designated a primary caregiver chooses to designate a different primary caregiver, the authority shall notify the previous designee of the new designation and issue an identification card to the newly designated primary caregiver.

SECTION 80c. The amendments to ORS 475.309 and 475.312 by sections 80a and 80b of this 2015 Act apply to:

(1) Applications received by the Oregon Health Authority for a registry identification card on or after the operative date specified in section 179 of this 2015 Act;

(2) Applications received by the authority to renew a registry identification card on or after the operative date specified in section 179 of this 2015 Act; and

(3) Registry identification cards updated by the authority on or after the operative date specified in section 179 of this 2015 Act.

(Medical Marijuana Producers)

SECTION 81. ORS 475.304 is amended to read:

475.304. *[(1) The Oregon Health Authority shall establish by rule a marijuana grow site registration system to authorize production of marijuana by a registry identification cardholder, a designated primary caregiver who grows marijuana for the cardholder or a person who is responsible for a marijuana grow site. The marijuana grow site registration system adopted must require a registry identification cardholder to submit an application to the authority that includes:]*

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

[(b) The address of the marijuana grow site;]

[(c) The registry identification card number of the registry cardholder for whom the marijuana is being produced; and]

[(d) Any other information the authority considers necessary.]

[(2) The authority shall issue a marijuana grow site registration card to a registry identification cardholder who has met the requirements of subsection (1) of this section.]

[(3) A person who has been issued a marijuana grow site registration card under this section must display the registration card at the marijuana grow site at all times when marijuana is being produced.]

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

[(5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder and must be provided to the registry identification

cardholder, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a medical marijuana facility registered under ORS 475.314, upon request.]

[(6)(a) The authority shall conduct a criminal records check under ORS 181.534 of any person whose name is submitted as a person responsible for a marijuana grow site.]

[(b) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.]

[(c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.]

[(7) A registry identification cardholder or the designated primary caregiver of the cardholder may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities associated with the production of marijuana for the registry identification cardholder. No other costs associated with the production of marijuana for the registry identification cardholder, including the cost of labor, may be reimbursed.]

[(8) The authority may adopt rules imposing a fee in an amount established by the authority for registration of a marijuana grow site under this section.]

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

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

(c) Paragraph (b) of this subsection does not apply to a the production of marijuana as provided in sections 3 to 70, chapter 1, Oregon Laws 2015, or as otherwise provided for by the statutory laws of this state.

(2) Rules adopted under this section must require an applicant for a registry identification card, or a registry identification cardholder who produces marijuana or who designates another person to produce marijuana, to submit an application to the authority containing the following information at the time of making an application under ORS 475.309 (2), renewing a registry identification card under ORS 475.309 (6)(b), or notifying the authority of a change under ORS 475.309 (6)(a):

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

(b) Proof, until January 1, 2020, that the person responsible for the marijuana grow site has been a resident of this state for two or more years, and proof that the person is 21 years of age or older;

(c) The address of the marijuana grow site; and

(d) Any other information that the authority considers necessary to track the production of marijuana under ORS 475.300 to 475.346.

(3)(a) The authority shall conduct a criminal records check under ORS 181.534 of any person whose name is submitted under this section as the person responsible for a marijuana grow site.

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

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

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

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

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

(7)(a) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder.

(b) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to the registry identification cardholder upon the request of the registry identification cardholder.

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

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

(e) Information related to transfers made under this subsection must be submitted to the authority in the manner required by section 81a of this 2015 Act.

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

(9) The authority may inspect:

(a) The marijuana grow site of a person designated to produce marijuana by a registry identification cardholder to ensure compliance with this section and section 81a of this 2015 Act and ORS 475.320 and any rule adopted under this section and section 81a of this 2015 Act and ORS 475.320; and

(b) The records of the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder to ensure compliance with this section and section 81a of this 2015 Act and any rule adopted under this section and section 81a of this 2015 Act.

(10) The authority may refuse to register a registry identification cardholder or a designee under this section or may suspend or revoke the registration of a person responsible for a marijuana grow site if the authority determines that the applicant or the person responsible for a marijuana grow site violated a provision of ORS 475.300 to 475.346, a rule adopted under ORS 475.300 to 475.346 or an ordinance adopted pursuant to section 2, chapter 79, Oregon Laws 2014.

(11) The authority may require a person responsible for a marijuana grow site, prior to issuing a marijuana grow site registration card under subsection (4) of this section, to pay a fee reasonably calculated to pay costs incurred under this section and sections 81a and 85e of this 2015 Act.

SECTION 81a. (1) A person designated to produce marijuana by a registry identification cardholder must submit to the Oregon Health Authority, in a form and manner established by the authority by rule, the following information related to the production of marijuana:

(a) The number of mature marijuana plants and immature marijuana plants, the amount of marijuana leaves and flowers being dried, and the amount of usable marijuana, in the person's possession;

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

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

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

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

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

SECTION 81b. (1) Except as provided in subsection (2) of this section, section 81a of this 2015 Act and the amendments to ORS 475.304 by section 81 of this 2015 Act apply to persons who have registered with the Oregon Health Authority under ORS 475.304 before, on or after the operative date specified in section 179 of this 2015 Act.

(2) The amendments to ORS 475.304 by section 81 of this 2015 Act pertaining to the submission of information necessary to register a person as a person responsible for a marijuana grow site apply to applications for registry identification cards, applications to renew registry identification cards, and designations made under ORS 475.304, on or after the operative date specified in section 179 of this 2015 Act.

(Grow Site Possession Limits)

SECTION 82. ORS 475.320 is amended to read:

475.320. [(1)(a) A registry identification cardholder or the designated primary caregiver of the cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.]

[(b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has been convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, the registry identification cardholder or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.]

[(2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:]

[(a) May produce marijuana for and provide marijuana:]

[(A) To a registry identification cardholder or a cardholder's designated primary caregiver as authorized under this section; or]

[(B) If the marijuana is usable marijuana or an immature marijuana plant and the registry identification cardholder authorizes the person responsible for the marijuana grow site to transfer the usable marijuana or immature marijuana plant to a medical marijuana facility registered under ORS 475.314, to the medical marijuana facility.]

[(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each cardholder or caregiver for whom marijuana is being produced.]

[(c) May produce marijuana for no more than four registry identification cardholders or designated primary caregivers concurrently.]

[(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304 for each registry identification cardholder or designated primary caregiver for whom marijuana is being produced.]

[(e) Must provide all marijuana produced for a registry identification cardholder or designated primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]

[(f) Must return the marijuana grow site registration card to the registry identification cardholder to whom the card was issued when requested to do so by the cardholder or when the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]

[(3) Except as provided in subsections (1) and (2) of this section, a registry identification cardholder, the designated primary caregiver of the cardholder and the person responsible for a marijuana grow site producing marijuana for the registry identification cardholder may possess a combined total of up to six mature plants and 24 ounces of usable marijuana for that registry identification cardholder.]

[(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Oregon Health Authority.]

[(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the authority for each registry identification cardholder for whom the person responsible for the marijuana grow site is producing marijuana.]

(1) Subject to subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess six or fewer mature marijuana plants.

(2)(a) A person may be designated to produce marijuana under ORS 475.304 by no more than four registry identification cardholders.

(b) A person who is designated to produce marijuana by a registry identification cardholder may produce no more than six mature marijuana plants per registry identification cardholder.

(3) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located within city limits in an area zoned for residential use:

(a) Except as provided in paragraph (b) of this subsection, no more than 12 mature marijuana plants may be produced at the address; or

(b) Subject to subsection (5) of this section, if each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 12 mature marijuana plants, not to exceed 24 mature marijuana plants, may be produced at the address.

(4) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located in an area other than an area described in subsection (3) of this section:

(a) Except as provided in paragraph (b) of this subsection, no more than 48 mature marijuana plants may be produced at the address; or

(b) Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants, may be produced at the address.

(5) If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (3)(b) or (4)(b) of this section:

(a) No more than 12 mature marijuana plants may be subsequently produced at any address described in subsection (3) of this section at which the person responsible for that marijuana grow site produces marijuana.

(b) No more than 48 mature marijuana plants may be subsequently produced at any address described in subsection (4) of this section at which the person responsible for that marijuana grow site produces marijuana.

(6) If a registry identification cardholder who designated a person to produce marijuana for the registry identification cardholder pursuant to ORS 475.304 terminates the designation, the person responsible for the marijuana grow site whose designation has been terminated may not be designated to produce marijuana by another registry identification cardholder, except that the person may be designated by another registry identification cardholder if no more than 48 mature marijuana plants are produced at the address for the marijuana grow site at which the person produces marijuana.

(7) If a law enforcement officer determines that a registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site under ORS 475.304 who grows marijuana for a registry identification cardholder, possesses a number of mature marijuana plants in excess of the quantities specified in this section, the law enforcement officer may confiscate only the excess number of mature marijuana plants.

SECTION 82a. (1) Except as provided in subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess no more than 24 ounces of usable marijuana.

(2) Subject to subsection (3) of this section, a person designated to produce marijuana by a registry identification cardholder may possess the amount of usable marijuana that the person harvests from the person's mature marijuana plants, provided that the person may not possess usable marijuana in excess of the amount of usable marijuana in the person's possession as reported to the Oregon Health Authority under section 81a of this 2015 Act.

(3) A person designated to produce marijuana by a registry identification cardholder may not possess usable marijuana in excess of:

(a) For a marijuana grow site located outdoors, 12 pounds of usable marijuana per mature marijuana plant; or

(b) For a marijuana grow site located indoors, six pounds of usable marijuana per mature marijuana plant.

SECTION 82b. The amendments to ORS 475.320 by section 82 of this 2015 Act apply to persons who registered with the Oregon Health Authority under ORS 475.304 before, on or after the operative date specified in section 179 of this 2015 Act.

(Personal Agreements)

SECTION 83. Notwithstanding ORS 475.304 (7), a person responsible for a marijuana grow site may enter into an agreement with a registry identification cardholder under which the registry identification cardholder assigns, to the person responsible for the marijuana grow site, a portion of the right to possess the seeds, immature marijuana plants and usable marijuana that are the property of the registry identification cardholder.

(Proof of Issuance)

SECTION 84. ORS 475.306 is amended to read:

475.306. [(1) A person who possesses a registry identification card issued pursuant to ORS 475.309 may engage in, and a designated primary caregiver of such a person may assist in, the medical use of marijuana only as justified to mitigate the symptoms or effects of the person's debilitating medical condition.]

[(2) A person who is a registry identification cardholder must possess the registry identification card when using or transporting marijuana in a location other than the residence of the cardholder.]

[(3) The Oregon Health Authority shall define by rule when a marijuana plant is mature and when it is immature. The rule shall provide that a plant that has no flowers and that is less than 12 inches in height and less than 12 inches in diameter is a seedling or a start and is not a mature plant.]

A person to whom a registry identification card has been issued under ORS 475.309 (5)(a), an identification card has been issued under ORS 475.309 (5)(b), or a marijuana grow site registration card has been issued under ORS 475.304, may not possess marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts in a location other than the address on file with the Oregon Health Authority unless the person is carrying the card.

(Medical Marijuana Processors)

SECTION 85. (1)(a) The Oregon Health Authority shall establish by rule a marijuana processing site registration system to track and regulate the processing of marijuana by a person responsible for a marijuana processing site.

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

(c) Paragraph (b) of this subsection does not apply to the processing of marijuana as provided in sections 3 to 70, chapter 1, Oregon Laws 2015, or as otherwise provided for by the statutory laws of this state.

(2) The registration system established under subsection (1) of this section must require an applicant for a marijuana processing site to submit an application to the authority that includes:

(a) The name of the individual who owns the marijuana processing site or, if a business entity owns the marijuana processing site, the name of each individual who has a financial interest in the marijuana processing site;

(b) The name of the individual or individuals responsible for the marijuana processing site, if different from the name of the individual who owns the marijuana processing site;

(c) The address of the marijuana processing site;

(d) Proof, until January 1, 2020, that each individual responsible for the marijuana processing site has been a resident of this state for two or more years, and proof that each individual responsible for the marijuana processing site is 21 years of age or older;

(e) Documentation, as required by the authority by rule, that demonstrates the marijuana processing site meets the requirements of subsection (3) of this section; and

(f) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a marijuana processing site:

(a) May not be located in an area that is zoned for residential use if the marijuana processing site processes cannabinoid extracts;

(b) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State; and

(c) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 for each individual named in an application under subsection (2) of this section.

(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site for two years from the date the individual is convicted.

(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site.

(5) If a person submits the application required under subsection (2) of this section, if the marijuana processing site identified in the application meets the requirements of this section

and any rules adopted under this section and if each individual named in the application passes the criminal records check required under subsection (4) of this section, the authority shall register the marijuana processing site and issue proof of registration. Proof of registration must be displayed on the premises of the marijuana processing site at all times.

(6) A marijuana processing site that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

(7) The individual or individuals responsible for a marijuana processing site shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(8) The authority may inspect:

(a) The premises of a proposed marijuana processing site or a registered marijuana processing site to ensure compliance with this section and sections 85a and 85b of this 2015 Act and any rules adopted under this section and sections 85a and 85b of this 2015 Act; and

(b) The records of a registered marijuana processing site to ensure compliance with subsection (7) of this section.

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a marijuana processing site if the authority determines that the applicant, the owner of the marijuana processing site, a person responsible for the marijuana processing site, or an employee of the marijuana processing site, violated a provision of ORS 475.300 to 475.346, a rule adopted under ORS 475.300 to 475.346 or an ordinance adopted pursuant to section 2, chapter 79, Oregon Laws 2014.

(10) The authority shall adopt rules to implement this section, including rules that:

(a) Require a registered marijuana processing site to annually renew the registration for that site;

(b) Establish fees for registering, and renewing the registration of, a marijuana processing site;

(c) Require that medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred by a marijuana processing site be tested to ensure the public health and safety; and

(d) Impose any other standard on the operation of a marijuana processing site to ensure the public health and safety.

SECTION 85a. (1) A marijuana processing site must meet any public health and safety standards established by the Oregon Health Authority by rule related to:

(a) Cannabinoid edibles, if the marijuana processing site processes marijuana into cannabinoid edibles;

(b) Cannabinoid concentrates, if the marijuana processing site processes marijuana into cannabinoid concentrates;

(c) Cannabinoid extracts, if the marijuana processing site processes marijuana into cannabinoid extracts; or

(d) Any other type of medical cannabinoid product identified by the authority by rule, if the marijuana processing site processes marijuana into that type of medical cannabinoid product.

(2) The authority shall adopt rules to implement this section.

SECTION 85b. (1) The Oregon Health Authority shall require by rule a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act the following information:

(a) The amount of usable marijuana transferred to the marijuana processing site;

(b) The amount and type of medical cannabinoid products transferred by the marijuana processing site;

(c) The amount and type of cannabinoid concentrates transferred by the marijuana processing site; and

(d) The amount and type of cannabinoid extracts transferred by the marijuana processing site.

(2) The authority by rule may require a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under section 85 (1) of this 2015 Act. The authority may not employ any method other than that described in this section to obtain information from a marijuana processing site.

SECTION 85c. (1) A marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a person other than a registry identification cardholder, a designated primary caregiver or a medical marijuana dispensary.

(2) A person other than a marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a medical marijuana dispensary.

SECTION 85d. Section 85 of this 2015 Act does not apply to a registry identification cardholder or a person who has been designated as a primary caregiver under ORS 475.312 who processes a medical cannabinoid product or a cannabinoid concentrate for a registry identification cardholder.

(Database)

SECTION 85e. (1) The Oregon Health Authority shall develop and maintain a database of information related to the production of marijuana by persons designated to produce marijuana by a registry identification cardholder, the processing of marijuana by a marijuana processing site under section 85 of this 2015 Act and the transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by medical marijuana dispensaries under ORS 475.314. At a minimum, the database must include the information submitted to the authority under sections 81a, 85b and 86b of this 2015 Act.

(2)(a) Subject to paragraph (c) of this subsection, the authority may provide information that is stored in the database developed and maintained under this section to a law enforcement agency.

(b) Subject to paragraph (c) of this subsection, the authority may provide information that is stored in the database developed and maintained under this section to the regulatory agencies of a city or county.

(c) The authority may not disclose:

(A) Any personally identifiable information related to a registry identification cardholder or a designated primary caregiver that is stored in the database developed and maintained under this section.

(B) Any information related to the amount and type of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred to or by persons designated to produce marijuana by a registry identification cardholder, marijuana processing sites or medical marijuana dispensaries.

(3) Nothing in this section prevents a law enforcement agency from lawfully obtaining information that is stored in the database developed and maintained under this section by subpoena.

(Medical Marijuana Dispensaries)

SECTION 86. ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended to read:

475.314. [(1) *The Oregon Health Authority shall establish by rule a medical marijuana facility registration system to authorize the transfer of usable marijuana and immature marijuana plants from:*]

[(a) *A registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility; or*]

[(b) *A medical marijuana facility to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.*]

(1)(a) The Oregon Health Authority shall establish by rule a medical marijuana dispensary registration system for the purpose of tracking and regulating the transfer of:

(A) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers and persons responsible for marijuana grow sites to medical marijuana dispensaries;

(B) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from persons responsible for marijuana processing sites to medical marijuana dispensaries; and

(C) Usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from medical marijuana dispensaries to registry identification cardholders and designated primary caregivers.

(b) A person may not operate an establishment for the purpose of providing the services described in paragraph (a) of this subsection unless the person is registered under this section.

(2) The registration system established under subsection (1) of this section must require an applicant for a medical marijuana [facility] dispensary to submit an application to the authority that includes:

(a) The name of the individual who owns the medical marijuana dispensary or, if a business entity owns the medical marijuana dispensary, the name of each individual who has a financial interest in the medical marijuana dispensary;

[(a)] **(b) The name of the [person] individual or individuals responsible for the medical marijuana [facility] dispensary, if different from the name of the individual who owns the medical marijuana dispensary;**

[(b)] **(c) The address of the medical marijuana [facility] dispensary;**

[(c)] **(d) Proof, until January 1, 2020, that [the person] each individual responsible for the medical marijuana [facility is a resident of Oregon] dispensary has been a resident of this state for two or more years, and proof that each individual responsible for the medical marijuana dispensary is 21 years of age or older;**

[(d)] **(e) Documentation, as required by the authority by rule, that demonstrates the medical marijuana [facility] dispensary meets the [qualifications for a medical marijuana facility as described in] requirements of subsection (3) of this section; and**

[(e)] **(f) Any other information that the authority considers necessary.**

(3) To qualify for registration under this section, a medical marijuana [facility] dispensary:

[(a) *Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land;*]

(a) May not be located in an area that is zoned for residential use;

(b) May not be located at the same address as a marijuana grow site;

(c) Must be registered as a business, or have filed [a pending] an application to register as a business, with the office of the Secretary of State;

[(d) *Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors;*]

(d) May not be located within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a);

(e) Must not be located within 1,000 feet of another medical marijuana [facility] **dispensary**; and

[(f) Must comport with rules adopted by the authority related to:]

[(A) Installing a minimum security system, including a video surveillance system, alarm system and safe; and]

[(B) Testing for pesticides, mold and mildew and the processes by which usable marijuana and immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the registry identification cardholder, the cardholder's designated primary caregiver or the cardholder's registered grower.]

(f) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 [of a person whose name is submitted as the person responsible for a medical marijuana facility] **for each individual named in an application submitted** under subsection (2) of this section.

(b) [A person] **An individual** convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not [be the person] **own or be** responsible for a medical marijuana [facility] **dispensary** for [five] **two** years from the date the [person] **individual** is convicted.

(c) [A person] **An individual** convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not [be the person] **own or be** responsible for a medical marijuana [facility] **dispensary**.

(5) If a person submits the application required under subsection (2) of this section, **if** the medical marijuana [facility] **dispensary** identified in the application meets the [qualifications for a medical marijuana facility described in subsection (3) of this section and the person responsible for the medical marijuana facility] **requirements of this section and any rules adopted under this section and if each individual named in the application** passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana [facility] **dispensary** and issue [the person responsible for the medical marijuana facility] proof of registration. [The person responsible for the medical marijuana facility shall display the] Proof of registration **must be displayed** on the premises of the medical marijuana [facility at all times when usable marijuana or immature marijuana plants are being transferred as described in subsection (1) of this section] **dispensary at all times**.

(6) A medical marijuana dispensary that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

[(6)(a) A registered medical marijuana facility may receive usable marijuana or immature marijuana plants only from a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site if the registered medical marijuana facility obtains authorization, on a form prescribed by the authority by rule and signed by a registry identification cardholder, to receive the usable marijuana or immature marijuana plants.]

[(b) A registered medical marijuana facility shall maintain:]

[(A) A copy of each authorization form described in paragraph (a) of this subsection; and]

[(B) Documentation of each transfer of usable marijuana or immature marijuana plants.]

(7) The individual or individuals responsible for a medical marijuana dispensary shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds.

[(7) A medical marijuana facility registered under this section may possess usable marijuana and immature marijuana plants in excess of the limits imposed on registry identification cardholders and designated primary caregivers under ORS 475.320.]

[(8)(a) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant safety packaging that meets standards established by the authority by rule.]

[(b) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused product that is manufactured or packaged in a manner that is attractive to minors, as determined by the authority by rule.]

[(9)] (8) The authority may inspect:

[(a) The premises of an applicant for a medical marijuana facility or a registered medical marijuana facility to ensure compliance with the qualifications for a medical marijuana facility described in subsection (3) of this section; and]

(a) The premises of a proposed medical marijuana dispensary or a registered medical marijuana dispensary to ensure compliance with this section and section 86b of this 2015 Act and any rules adopted under this section or section 86b of this 2015 Act; and

(b) The records of a registered medical marijuana [facility] dispensary to ensure compliance with subsection [(6)(b)] (7) of this section.

[(10)(a) A registry identification cardholder or the designated primary caregiver of a registry identification cardholder may reimburse a medical marijuana facility registered under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.]

[(b) A medical marijuana facility may reimburse a person responsible for a marijuana grow site under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.]

[(11) the authority may revoke the registration of a medical marijuana facility registered under this section for failure to comply with ORS 475.300 to 475.346, rules adopted under ORS 475.300 to 475.346 or ordinances adopted pursuant to section 2, chapter 79, Oregon Laws 2014. The authority may release to the public a final order revoking a medical marijuana facility registration.]

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a medical marijuana dispensary if the authority determines that the applicant, the owner of the medical marijuana dispensary, a person responsible for the medical marijuana dispensary, or an employee of the medical marijuana dispensary, violated a provision of ORS 475.300 to 475.346, a rule adopted under ORS 475.300 to 475.346 or an ordinance adopted pursuant to section 2, chapter 79, Oregon Laws 2014.

[(12)] (10) The authority shall adopt rules to implement this section, including rules that:

(a) Require a registered medical marijuana [facility registered under this section] dispensary to annually renew [that registration; and] the registration for that dispensary;

(b) Establish fees for registering, and renewing the registration [for] of, a medical marijuana [facility under this section.] dispensary;

(c) Require that each medical marijuana dispensary install and maintain a minimum security system that includes video surveillance, an alarm system and a safe;

(d) Require that usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts and immature marijuana plants transferred by a medical marijuana dispensary be tested to ensure the public health and safety; and

(e) Impose any other standard on the operation of a medical marijuana dispensary to ensure the public health and safety.

SECTION 86a. If a school described in ORS 475.314 (3)(d) that has not previously been attended by children is established within 1,000 feet of a medical marijuana dispensary, the medical marijuana dispensary may remain at its current location unless the Oregon Health Authority revokes the registration of the medical marijuana dispensary.

SECTION 86b. (1) The Oregon Health Authority shall require by rule a medical marijuana dispensary to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act the following information:

(a) The amount of usable marijuana transferred to and by the medical marijuana dispensary;

(b) The amount and type of medical cannabinoid products transferred to and by the medical marijuana dispensary;

(c) The amount and type of cannabinoid concentrates transferred to and by the medical marijuana dispensary;

(d) The amount and type of cannabinoid extracts transferred to and by the medical marijuana dispensary; and

(e) The quantity of immature marijuana plants transferred to and by the medical marijuana dispensary.

(2) The authority by rule may require a medical marijuana dispensary to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under ORS 475.314 (1). The authority may not employ any method other than that described in this section to obtain information from a medical marijuana dispensary.

(Designation, Assignment and Foreclosure)

SECTION 86c. (1) A person responsible for a marijuana processing site, or a person responsible for a medical marijuana dispensary, may designate that responsibility to another person.

(2) If a designation is made under this section, the designee must submit to the Oregon Health Authority proof that the designee meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, section 85 (2)(d) and (4) of this 2015 Act; or

(b) For medical marijuana dispensaries, ORS 475.314 (2)(d) and (4).

(3) The authority may prescribe the form and manner of submitting proof under subsection (2) of this section.

SECTION 86d. (1) A person responsible for a marijuana processing site, or a person responsible for a medical marijuana dispensary, may assign that responsibility to another person.

(2) If an assignment is made under this section, the assignee must submit to the Oregon Health Authority proof that the assignee meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, section 85 (2)(d) and (4) of this 2015 Act; or

(b) For medical marijuana dispensaries, ORS 475.314 (2)(d) and (4).

(3) The authority may prescribe the form and manner of submitting proof under subsection (2) of this section.

SECTION 86e. (1) In the event that a marijuana processing site or a medical marijuana dispensary is foreclosed or otherwise ceases operations as described in ORS chapter 79, a secured party, as defined in ORS 79.0102, may continue operations at the marijuana processing site or medical marijuana dispensary upon submitting to the Oregon Health Authority proof that the secured party or, if the secured party is a business entity, any individual who has a financial interest in the secured party, meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, section 85 (2)(d) and (4) of this 2015 Act; or

(b) For medical marijuana dispensaries, ORS 475.314 (2)(d) and (4).

(2) The authority may prescribe the form and manner of submitting proof under subsection (1) of this section.

(Exemptions from Criminal Liability)

and Affirmative Defense)

SECTION 87. Except as provided in ORS 475.316, a person engaged in or assisting in the medical use of marijuana is exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element if:

- (1) The person holds a registry identification card.
- (2) The person has applied for a registry identification card under ORS 475.309 and the person has proof of written documentation described in ORS 475.309 (2)(a) and proof of the date on which the person submitted the application to the Oregon Health Authority. An exemption under this subsection applies only until the authority approves or denies the application.
- (3) The person is designated as a primary caregiver under ORS 475.312.
- (4) The person is responsible for or is employed by a marijuana grow site registered under ORS 475.304.
- (5) The person owns, is responsible for, or is employed by, a marijuana processing site.
- (6) The person owns, is responsible for, or is employed by, a medical marijuana dispensary.

SECTION 87a. ORS 475.319 is amended to read:

475.319. (1) Except as provided in ORS 475.316 *[and 475.342, it is]*, **a person has** an affirmative defense to a criminal charge of possession *[or production]*, **delivery or manufacture** of marijuana, or any other criminal offense in which possession *[or production]*, **delivery or manufacture** of marijuana is an element, *[that] if* the person charged with the offense *[is a person who]*:

(a) *[Has been]* **Was** diagnosed with a debilitating medical condition within 12 months *[prior to arrest and been]* **of the date on which the person was arrested and was** advised by the person's attending physician that the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition;

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

(c) Possesses *[or produces]*, **delivers or manufactures** marijuana only in *[amounts]* **quantities** permitted under ORS 475.320.

(2) *[It is not necessary for a person asserting an affirmative defense pursuant to this section to have received]* **A person does not need to lawfully possess** a registry identification card *[in order]* to assert the affirmative defense established in this section.

(3) *[No]* **A** person engaged in the medical use of marijuana who claims that marijuana provides medically necessary benefits and who is charged with a crime pertaining to *[such]* **the** use of marijuana *[shall be]* **is not** precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, provided that *[the amount of marijuana at issue is no greater than permitted under ORS 475.320 and the patient]*:

(a) **The person possesses, delivers or manufactures marijuana only as permitted under ORS 475.320 (1); and**

(b) **The person** has taken a substantial step *[to comply]* **toward complying** with the provisions of ORS 475.300 to 475.346.

(4) *[Any]* **A** defendant proposing to use the affirmative defense *[provided for by]* **established in** this section in a criminal action shall, not less than five days before the trial of the cause, file and serve upon the district attorney a written notice of the intention to *[offer such a]* **assert the affirmative** defense *[that]*. **The notice must** specifically *[states]* **state** the reasons why the defendant is entitled to assert **the affirmative defense** and the factual basis for *[such]* **the** affirmative defense. If the defendant fails to file and serve *[such]* **the** notice, the defendant is not permitted to assert the affirmative defense at the trial of the cause unless the court *[for good cause]* orders, **for good cause**, otherwise.

SECTION 87b. ORS 475.316 is amended to read:

475.316. *[(1) No person authorized to possess, deliver or produce marijuana for medical use pursuant to ORS 475.300 to 475.346 shall be excepted from the criminal laws of this state or shall be deemed to have established an affirmative defense to criminal charges of which possession, delivery or production of marijuana is an element if the person, in connection with the facts giving rise to such charges:] A person is not exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, and the person may not assert the affirmative defense established in ORS 475.319, if the person, in connection with conduct constituting an element of the offense:*

[(a)] (1) Drives under the influence of marijuana as provided in ORS 813.010;

[(b)] (2) Engages in the medical use of marijuana in a public place, as [that term is] defined in ORS 161.015, [or] in public view or in a correctional facility, as defined in ORS 162.135 (2), or a youth correction facility, as defined in ORS 162.135 (6); or

[(c)] (3) Delivers marijuana to any individual who the person knows is not in possession of a registry identification card[;] or to any individual or entity that the person knows has not been designated to receive marijuana or assigned a possessory interest in marijuana by an individual in possession of a registry identification card.

[(d) Delivers marijuana for consideration to any individual, even if the individual is in possession of a registry identification card;]

[(e) Manufactures or produces marijuana at a place other than a marijuana grow site authorized under ORS 475.304; or]

[(f) Manufactures or produces marijuana at more than one address.]

[(2) In addition to any other penalty allowed by law, a person who the Oregon Health Authority finds has willfully violated the provisions of ORS 475.300 to 475.346, or rules adopted under ORS 475.300 to 475.346, may be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of up to six months, at the discretion of the authority.]

(General Powers)

SECTION 88. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475.300 to 475.346, or for each violation of a rule adopted under a provision of ORS 475.300 to 475.346, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) All moneys collected pursuant to this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475.300 to 475.346.

SECTION 88a. Upon request the State Department of Agriculture and the Oregon Liquor Control Commission, pursuant to an agreement or otherwise, shall assist the Oregon Health Authority in implementing and enforcing the provisions of ORS 475.300 to 475.346 and rules adopted under the provisions of ORS 475.300 to 475.346.

SECTION 88b. The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor Control Commission may possess, seize or dispose of marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts as is necessary for the authority to ensure compliance with and enforce the provisions of ORS 475.300 to 475.346 and any rule adopted under ORS 475.300 to 475.346.

(Exemption from Civil Liability)

SECTION 88c. The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor Control Commission, and the officers, employees and agents of the authority, department and commission, are immune from any cause of action for the performance of, or the failure to perform, duties required by ORS 475.300 to 475.346.

(Confidentiality)

SECTION 88d. (1) Any personally identifiable information, as defined in ORS 432.005, other than a name of an individual or an address submitted with an application under ORS 475.314 or section 85 of this 2015 Act, that the Oregon Health Authority collects and maintains for purposes of registering a marijuana grow site under ORS 475.304, a marijuana processing site under section 85 of this 2015 Act, or a medical marijuana dispensary under ORS 475.314, is confidential and not subject to public disclosure under ORS 192.410 to 192.505, except that the authority may provide personally identifiable information to a person registered under ORS 475.300 to 475.346 if the registrant requests the information and the information is related to a designation made under ORS 475.300 to 475.346.

(2) Any personally identifiable information, as defined in ORS 432.005, submitted to the authority under section 81a, 85b or 86b of this 2015 Act or pursuant to section 85e of this 2015 Act is confidential and not subject to public disclosure under ORS 192.410 to 192.505.

(3) Any record that the authority keeps or maintains for purposes related to the installation or maintenance of a security system by a medical marijuana dispensary pursuant to rules adopted under ORS 475.314 (10) is confidential and not subject to public disclosure under ORS 192.410 to 192.505.

SECTION 88e. Notwithstanding section 88d of this 2015 Act, if the Oregon Health Authority suspends or revokes the registration of the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary, or otherwise takes disciplinary action against the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary, the authority shall provide that information to a law enforcement agency.

(Seeds)

SECTION 88f. (1) For purposes of ORS 475.300 to 475.346, seeds of the plant Cannabis family Cannabaceae are a propagant of nursery stock as defined in ORS 571.005.

(2) Notwithstanding subsection (1) of this section, the production and processing of seeds under ORS 475.300 to 475.346 is not subject to the labeling or other requirements of ORS 576.715 to 576.744 or 633.511 to 633.750.

(Ordinances)

SECTION 89. Section 2, chapter 79, Oregon Laws 2014, is amended to read:

Sec. 2. *[Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, “reasonable regulations” includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.]*

(1) For purposes of this section, “reasonable regulations” includes:

(a) Reasonable limitations on the hours during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate;

(b) Reasonable conditions on the manner in which a marijuana processing site or medical marijuana dispensary may transfer usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds;

(c) Reasonable requirements related to the public's access to the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary; and

(d) Reasonable limitations on where the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may be located.

(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites of persons designated to produce marijuana by registry identification cardholders, marijuana processing sites and medical marijuana dispensaries that are located in the area subject to the jurisdiction of the city or county.

(Other Amendments)

SECTION 90. ORS 475.300 is amended to read:

475.300. The people of the State of Oregon *[hereby]* find that:

(1) Patients and doctors have found marijuana to be an effective treatment for suffering caused by debilitating medical conditions[,] and, therefore, marijuana *[should]* **must** be treated like other medicines;

(2) Oregonians suffering from debilitating medical conditions should be allowed to use *[small amounts of]* marijuana without fear of civil or criminal penalties when *[their doctors advise that such use]* **a doctor advises that using marijuana** may provide a medical benefit *[to them]* and when other reasonable restrictions are met regarding that use;

(3) ORS 475.300 to 475.346 are intended to allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to be able to *[discuss freely with their]* **freely discuss with** doctors the possible risks and benefits *[of]* **associated with the** medical use of marijuana *[use]* and to have the benefit of *[their doctor's]* professional **medical** advice; and

(4) ORS 475.300 to 475.346 are intended *[to make only those changes to existing Oregon laws that are necessary]* to protect patients and *[their]* doctors from criminal and civil penalties[,] and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes.

SECTION 90a. ORS 475.303 is amended to read:

475.303. (1) There is *[created]* **established within the Oregon Health Authority** the Advisory Committee on Medical Marijuana *[in the Oregon Health Authority]*, consisting of 11 members appointed by the Director of the Oregon Health Authority.

(2) The director shall appoint members of the committee from *[persons who possess registry identification cards, designated primary caregivers of persons who possess registry identification cards and advocates of the Oregon Medical Marijuana Act.]* **persons who are knowledgeable about marijuana or who are registered with the authority under ORS 475.300 to 475.346 and who are advocates for the medical use of marijuana, provided that a majority of the members of the committee are registered with the authority under ORS 475.300 to 475.346 and are advocates for the medical use of marijuana.**

(3) The committee shall advise the director on the administrative aspects of *[the Oregon Medical Marijuana Program, review current and proposed administrative rules of the program and provide annual input on the fee structure of the program.]* **ORS 475.300 to 475.346, including rules and fees adopted, and proposed for adoption, under ORS 475.300 to 475.346.**

(4) The committee shall meet at least four times per year, at times and places specified by the director.

(5) The authority shall provide staff support to the committee.

(6) All agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice that the members of the committee consider necessary to perform their duties.

SECTION 90b. ORS 475.323 is amended to read:

475.323. (1) *[Possession of a registry identification card, designated primary caregiver identification card pursuant to ORS 475.309 or proof of registration as a medical marijuana facility under ORS 475.314]* **Registration under ORS 475.300 to 475.346 or possession of proof of registration under ORS 475.300 to 475.346** does not *[alone]* constitute probable cause to search the person or property of the *[cardholder]* **registrant** or otherwise subject the person or property of the *[cardholder]* **registrant** to inspection by *[any governmental]* **a government** agency. However, the Oregon Health Authority may inspect a *[medical marijuana facility registered under ORS 475.314]* **marijuana grow site registered under ORS 475.304, a marijuana processing site registered under section 85 of this 2015 Act, or a medical marijuana dispensary registered under ORS 475.314,** at any reasonable time to determine whether *[the facility]* **the person responsible for the marijuana grow site, the person responsible for the marijuana processing site, or the person responsible for the medical marijuana dispensary,** is in compliance with ORS 475.300 to 475.346 and rules adopted under ORS 475.300 to 475.346.

(2) Any property interest possessed, owned or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession of *[any]* **a law enforcement agency[.], except that** a law enforcement agency has no responsibility to maintain live marijuana plants lawfully seized. *[No]* Such property interest may **not** be forfeited under any provision of law providing for the forfeiture of property *[other than as], except pursuant to* a sentence imposed after conviction of a criminal offense. *[Usable]* Marijuana and **equipment or paraphernalia** used to **produce, process or** administer marijuana that was seized by *[any]* **a law enforcement [office] officer** shall be returned immediately *[upon a determination by]* **if** the district attorney in whose county the property was seized, or the district attorney's designee, **determines** that the person from whom the marijuana, **equipment or paraphernalia** *[used to administer marijuana]* was seized is entitled to the protections *[contained in]* **provided by** ORS 475.300 to 475.346. The determination may be evidenced*[, for example,]* by a decision not to prosecute, the dismissal of charges or acquittal.

SECTION 90c. ORS 475.326 is amended to read:

475.326. *[No attending physician may be subjected to civil penalty or discipline by the Oregon Medical Board for:]* **The Oregon Medical Board may not impose a civil penalty or take other disciplinary action against an attending physician for:**

(1) Advising a person *[whom the attending physician has]* diagnosed as having a debilitating medical condition*[, or a person who the attending physician knows has been so diagnosed]* by **the attending physician or** another physician licensed under ORS chapter 677*[,]* about the risks and benefits *[of]* **associated with the** medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, provided **that** the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition; or

(2) Providing the written documentation necessary for issuance **or renewal** of a registry identification card under ORS 475.309, *[if]* **provided that** the **written** documentation is based on the attending physician's personal assessment of the *[applicant's]* **person's** medical history and current medical condition and the attending physician has discussed **with the person** the potential *[medical]* risks and benefits *[of]* **associated with** the medical use of marijuana *[with the applicant]*.

SECTION 90d. ORS 475.328 is amended to read:

475.328. (1) [No] **A professional licensing board may not impose a civil penalty or take other disciplinary action against a licensee based on the licensee's medical use of marijuana [in accordance with] under the provisions of ORS 475.300 to 475.346 or actions taken by the licensee [that are necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses a lawful registry identification card] pursuant to the licensee's designation as a primary caregiver under ORS 475.312.**

(2)(a) A licensed health care professional may administer medical marijuana to a person who possesses a registry identification card and resides in a licensed health care facility if the administration of pharmaceuticals is within the scope of practice of the licensed health care professional. Administration of medical marijuana under this subsection may not take place in a public place as defined in ORS 161.015 or in the presence of a person under 18 years of age. If the medical marijuana administered under this subsection is smoked, adequate ventilation must be provided.

(b) Nothing in this subsection requires:

(A) A licensed health care professional to administer medical marijuana; or

(B) A licensed health care facility to make accommodations for the administration of medical marijuana.

SECTION 90e. ORS 475.331 is amended to read:

475.331. (1)(a) The Oregon Health Authority shall *[create]* **establish** and maintain a list of *[the persons to whom the authority has issued registry identification cards, the names of any designated primary caregivers, the names of persons responsible for a medical marijuana facility registered under ORS 475.314, the addresses of authorized marijuana grow sites and the addresses of registered medical marijuana facilities].*:

(A) The names of persons to whom a registry identification card has been issued under ORS 475.309;

(B) The names of persons designated as primary caregivers under ORS 475.312; and

(C) The addresses of marijuana grow sites registered under ORS 475.304.

(b) Except as provided in subsection (2) of this section, the list *[shall be]* **is** confidential and not subject to public disclosure **under ORS 192.410 to 192.505.**

[(b)] **(c)** The authority shall develop a system by which authorized employees of state and local law enforcement agencies may verify *[at all times]* that:

(A) A person *[is a lawful possessor of]* **lawfully possesses** a registry identification card;

(B) A person is the designated primary caregiver of a lawful possessor of a registry identification card; **or**

(C) A location is *[an authorized]* **a registered** marijuana grow site[;].

[(D) A location is a registered medical marijuana facility; or]

[(E) A person is the person listed as the person responsible for a registered medical marijuana facility.]

(2) Names, **addresses** and other identifying information from the list established **and maintained** pursuant to subsection (1) of this section may be released to:

(a) Authorized employees of the authority as necessary to perform official duties of the authority.

(b) Authorized employees of state or local law enforcement agencies[,] who provide to the authority adequate identification, *[such as a badge number or similar authentication of authority,]* **but** only as necessary to verify that:

(A) A person *[is a lawful possessor of]* **lawfully possesses** a registry identification card;

(B) A person is the designated primary caregiver of a lawful possessor of a registry identification card; **or**

(C) A location is *[an authorized]* **a registered** marijuana grow site[;].

[(D) A location is a registered medical marijuana facility; or]

[(E) A person is the person listed as the person responsible for a registered medical marijuana facility.]

(3) Authorized employees of state or local law enforcement agencies *[that]* **who** obtain identifying information *[from the list]* as authorized *[under]* **by** this section may not release or use the information for any purpose other than *[verification]* **to verify** that:

- (a) A person *[is a lawful possessor of]* **lawfully possesses** a registry identification card;
- (b) A person is the designated primary caregiver of a lawful possessor of a registry identification card; **or**
- (c) A location is *[an authorized]* **a registered** marijuana grow site[;].
- [(d) A location is a registered medical marijuana facility; or]*
- [(e) A person is the person listed as the person responsible for a registered medical marijuana facility.]*

(4) **In addition to releasing information to authorized employees of state or local law enforcement agencies for purposes of verifying information under subsection (2)(b) of this section, the authority may release to authorized employees of state or local law enforcement agencies the minimum amount of information necessary to enable an employee to determine whether an individual or location is in compliance with a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.**

(5) **If the authority determines, after conducting an investigation or receiving a complaint of an alleged violation of a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346, that a violation of a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346 has occurred, the authority may provide information obtained by the authority, except for information related to a registry identification cardholder's debilitating condition, to authorized employees of state or local law enforcement agencies, or to another state or local government agency with jurisdiction over the matter.**

SECTION 90f. ORS 475.334 is amended to read:

475.334. Any person may *[submit a petition to]* **petition** the Oregon Health Authority *[requesting]* **to request** that a *[particular]* disease or condition be included among the diseases and conditions that qualify as debilitating medical conditions under ORS *[475.302]* **475.300 to 475.346**. The authority shall adopt rules establishing *[the manner in which the authority will evaluate petitions submitted under this section]* **the procedure for filing a petition under this section and the manner by which the authority evaluates a request made under this section.** *[Any]* Rules adopted *[pursuant to]* **under** this section *[shall]* **must** require the authority to approve or deny a petition within 180 days of *[receipt of]* **receiving** the petition *[by the authority]*. Denial of a petition *[shall be considered]* **is** a final *[authority]* **agency** action subject to judicial review.

SECTION 90g. ORS 475.338 is amended to read:

475.338. (1) The Oregon Health Authority shall adopt *[all]* rules necessary for the implementation, *[and]* administration **and enforcement** of ORS 475.300 to 475.346.

(2) **The authority may adopt rules as the authority considers necessary to protect the public health and safety.**

SECTION 90h. ORS 475.340 is amended to read:

475.340. Nothing in ORS 475.300 to 475.346 *[shall be construed to require]* **requires:**

- (1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or
- (2) An employer to accommodate the medical use of marijuana in *[any]* **the** workplace.

SECTION 90i. ORS 475.342 is amended to read:

475.342. *[Nothing in]* **The provisions of** ORS 475.300 to 475.346 *[shall protect]* **do not protect** a person from a criminal cause of action based on possession, *[production, or]* delivery **or manufacture** of marijuana that is not *[authorized by]* **described in** ORS 475.300 to 475.346.

TESTING OPERATIVE JANUARY 1, 2016

SECTION 91. As used in sections 91 to 99 of this 2015 Act:

(1) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(2) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.

(3) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.

(4)(a) "Cannabinoid product" means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.

(b) "Cannabinoid product" does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate or extract by itself; or

(C) Industrial hemp, as defined in ORS 571.300.

(5)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(6) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(7) "Processing" means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(8) "Producing" means:

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

(b) Drying marijuana leaves and flowers.

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

(b) "Usable marijuana" does not include:

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

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

SECTION 92. (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Liquor Control Commission and the State Department of Agriculture, the Oregon Health Authority shall adopt rules:

(a) Establishing standards for testing marijuana items.

(b) Identifying appropriate tests for marijuana items, depending on the type of marijuana item and the manner in which the marijuana item was produced or processed, that are necessary to protect the public health and safety, including, but not limited to, tests for:

(A) Microbiological contaminants;

(B) Pesticides;

(C) Other contaminants;

(D) Solvents or residual solvents; and

(E) Tetrahydrocannabinol and cannabidiol concentration.

(c) Establishing procedures for determining batch sizes and for sampling usable marijuana, cannabinoid products and cannabinoid concentrates or extracts.

(d) Establishing different minimum standards for different varieties of usable marijuana and different types of cannabinoid products and cannabinoid concentrates and extracts.

(2) In addition to the testing requirements established under subsection (1) of this section, the authority or the commission may require cannabinoid edibles to be tested in accordance with any applicable law of this state, or any applicable rule adopted under a law of this state, related to the production and processing of food products or commodities.

(3) In adopting rules under ORS 475.300 to 475.346, the authority may require:

(a) A person responsible for a marijuana grow site under ORS 475.304 to test usable marijuana before transferring the usable marijuana to a registrant other than an individual who holds a registry identification card under ORS 475.309; and

(b) A person processing marijuana to test cannabinoid products or cannabinoid concentrates or extracts before transferring the cannabinoid products or cannabinoid concentrates or extracts to a registrant other than an individual who holds a registry identification card under ORS 475.309.

(4) In adopting rules under sections 3 to 70, chapter 1, Oregon Laws 2015, the commission may require:

(a) A marijuana producer that holds a license under section 19, chapter 1, Oregon Laws 2015, or a marijuana wholesaler that holds a license under section 21, chapter 1, Oregon Laws 2015, to test usable marijuana before selling or transferring the usable marijuana; and

(b) A marijuana processor that holds a license under section 20, chapter 1, Oregon Laws 2015, or a marijuana wholesaler that holds a license under section 21, chapter 1, Oregon Laws 2015, to test cannabinoid products or cannabinoid concentrates or extracts before selling or transferring the cannabinoid products or cannabinoid concentrates or extracts.

(5) The authority and the commission may conduct random testing of marijuana items for the purpose of determining whether a person subject to testing under subsection (3) of this section or a licensee subject to testing under subsection (4) of this section is in compliance with this section.

(6) In adopting rules to implement this section, the authority and commission may not require a marijuana item to undergo the same test more than once unless the marijuana item is processed into a different type of marijuana item or the condition of the marijuana item has fundamentally changed.

(7) The testing of marijuana items as required by this section must be conducted by a laboratory licensed by the commission under section 93 of this 2015 Act and accredited by the authority under section 94 of this 2015 Act.

(8) In adopting rules under subsection (1) of this section, the authority:

(a) Shall consider the cost of a potential testing procedure and how that cost will affect the cost to the ultimate consumer of the marijuana item; and

(b) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

SECTION 93. (1) A laboratory that conducts testing of marijuana items as required by section 92 of this 2015 Act must have a license to operate at the premises at which the marijuana items are tested.

(2) For purposes of this section, the Oregon Liquor Control Commission shall adopt rules establishing:

(a) Qualifications to be licensed under this section, including that an applicant for licensure under this section must be accredited by the authority as described in section 94 of this 2015 Act;

(b) Processes for applying for and renewing a license under this section;

(c) Fees for applying for, receiving and renewing a license under this section; and

(d) Procedures for:

(A) Tracking usable marijuana, cannabinoid products and cannabinoid concentrates or extracts to be tested;

(B) Documenting and reporting test results; and

(C) Disposing of samples of usable marijuana, cannabinoid products and cannabinoid concentrates or extracts that have been tested.

(3) A license issued under this section must be renewed annually.

(4) The commission may inspect premises licensed under this section to ensure compliance with sections 91 to 99 of this 2015 Act and rules adopted under sections 91 to 99 of this 2015 Act.

(5) Subject to the applicable provisions of ORS chapter 183, the commission may refuse to issue or renew, or may suspend or revoke, a license issued under this section for violation of:

(a) A provision of sections 91 to 99 of this 2015 Act or a rule adopted under a provision of sections 91 to 99 of this 2015 Act; or

(b) A provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.

(6) Fees adopted under subsection (2)(c) of this section must be reasonably calculated to pay the expenses incurred by the commission under sections 91 to 99 of this 2015 Act.

(7) Fee moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act and are continuously appropriated to the commission for the purpose of carrying out the duties, functions and powers of the commission under sections 91 to 99 of this 2015 Act.

SECTION 94. (1) A laboratory that conducts testing of marijuana items as required by section 92 of this 2015 Act must be accredited under ORS 438.605 to 438.620 and meet other qualifications as established by the Oregon Health Authority under this section.

(2) In addition to other qualifications required pursuant to ORS 438.605 to 438.620, the authority shall require an applicant for accreditation under ORS 438.605 to 438.620 for purposes related to the testing of marijuana items to:

(a) Complete an application;

(b) Undergo an onsite inspection; and

(c) Meet other applicable requirements, specifications and guidelines for testing marijuana items, as determined to be appropriate by the authority by rule.

(3) The authority may inspect premises licensed under section 93 of this 2015 Act to ensure compliance with sections 91 to 99 of this 2015 Act and rules adopted under sections 91 to 99 of this 2015 Act.

(4) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue or renew, or may suspend or revoke, a laboratory's accreditation granted under this section and ORS 438.605 to 438.620 for violation of:

(a) A provision of sections 91 to 99 of this 2015 Act or a rule adopted under a provision of sections 91 to 99 of this 2015 Act; or

(b) A provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.

(5) In establishing fees under ORS 438.620 for laboratories that test marijuana items, the authority shall establish fees that are reasonably calculated to pay the expenses incurred by the authority under this section and ORS 438.605 to 439.620 in accrediting laboratories that test marijuana items.

SECTION 95. Sections 91 to 99 of this 2015 Act do not apply to:

(1) A person responsible for a marijuana grow site under ORS 475.304 if the person is transferring usable marijuana or an immature marijuana plant, as defined in section 5, chapter 1, Oregon Laws 2015, to:

(a) A person who holds a registry identification card under ORS 475.309 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(b) A person who has been designated as the primary caregiver under ORS 475.312 of a person who holds a registry identification card under ORS 475.309 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(2) A person who has been designated as the primary caregiver under ORS 475.312 of a person who holds a registry identification card under ORS 475.309 if the person is transferring a marijuana item to the person who holds a registry identification card.

SECTION 96. Subject to the applicable provisions of ORS chapter 183, if an applicant or licensee violates a provision of sections 91 to 99 of this 2015 Act or a rule adopted under a provision of sections 91 to 99 of this 2015 Act, the Oregon Liquor Control Commission may

refuse to issue or renew, or may suspend or revoke, a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

SECTION 97. Subject to the applicable provisions of ORS chapter 183, if a person violates a provision of sections 91 to 99 of this 2015 Act or a rule adopted under a provision of sections 91 to 99 of this 2015 Act, the Oregon Health Authority may:

- (1) Refuse to register the person under ORS 475.300 to 475.346;
- (2) Suspend activities conducted by a registrant pursuant to ORS 475.300 to 475.346; or
- (3) Remove a registrant from a registry kept pursuant to ORS 475.300 to 475.346.

SECTION 98. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of sections 91 to 99 of this 2015 Act, or a rule adopted under a provision of sections 91 to 99 of this 2015 Act, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under sections 91 to 99 of this 2015 Act.

SECTION 99. A person who holds a license under section 93 of this 2015 Act, and an employee of or other person who performs work for a person who holds a license under section 93 of this 2015 Act, are exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, while performing activities related to testing as described in sections 91 to 99 of this 2015 Act.

PACKAGING, LABELING AND DOSAGE OPERATIVE JANUARY 1, 2016

SECTION 100. As used in sections 100 to 112 of this 2015 Act:

(1) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(2) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.

(3) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.

(4)(a) "Cannabinoid product" means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.

(b) "Cannabinoid product" does not include:

- (A) Usable marijuana by itself;
- (B) A cannabinoid concentrate or extract by itself; or
- (C) Industrial hemp, as defined in ORS 571.300.

(5)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(6) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(7) "Processing" means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(8) "Producing" means:

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

- (b) Drying marijuana leaves and flowers.
- (9)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.
- (b) "Usable marijuana" does not include:
 - (A) The seeds, stalks and roots of marijuana; or
 - (B) Waste material that is a by-product of producing or processing marijuana.

SECTION 101. (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Liquor Control Commission and the State Department of Agriculture, the Oregon Health Authority shall adopt rules establishing standards for the labeling of marijuana items, including but not limited to:

(a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles and other cannabinoid products have labeling that communicates:

- (A) Health and safety warnings;
- (B) Activation time;
- (C) Results of tests conducted pursuant to sections 91 to 99 of this 2015 Act;
- (D) Potency;

(E) For cannabinoid products and cannabinoid concentrates and extracts, serving size and the number of servings included in a cannabinoid product or cannabinoid concentrate or extract package; and

(F) Content of the marijuana item; and

(b) Labeling that is in accordance with applicable state food labeling requirements for the same type of food product or potable liquid when the food product or potable liquid does not contain marijuana or cannabinoids.

(2) In adopting rules under ORS 475.300 to 475.346, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475.314 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under sections 3 to 70, chapter 1, Oregon Laws 2015, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(4) In adopting rules under subsection (1) of this section, the authority:

- (a) May establish different labeling standards for different varieties of usable marijuana and for different types of cannabinoid products and cannabinoid concentrates and extracts;
- (b) May establish different minimum labeling standards for persons registered under ORS 475.300 to 475.346 and persons licensed under sections 3 to 70, chapter 1, Oregon Laws 2015;
- (c) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate consumer of the marijuana item; and
- (d) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

SECTION 102. (1) As used in this section:

(a) "Licensee" has the meaning given that term in section 5, chapter 1, Oregon Laws 2015.

(b) "Registrant" means a person registered under ORS 475.300 to 475.346.

(2) The Oregon Liquor Control Commission may by rule require a licensee, and the Oregon Health Authority may by rule require a registrant, to submit a label intended for use on a marijuana item for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item bearing the label. The commission shall determine whether a label submitted under this section complies with section 101 of this 2015 Act and any rule adopted under section 101 of this 2015 Act.

(3) The commission may impose a fee for submitting a label for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section.

SECTION 103. (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Health Authority and the State Department of Agriculture, the Oregon Liquor Control Commission shall adopt rules establishing standards for the packaging of marijuana items, including but not limited to:

(a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles and other cannabinoid products are:

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

(B) Not marketed in a manner that:

(i) Is untruthful or misleading;

(ii) Is attractive to minors; or

(iii) Otherwise creates a significant risk of harm to public health and safety; and

(b) Ensuring that cannabinoid edibles and other cannabinoid products are not packaged in a manner that is attractive to minors.

(2) In adopting rules under ORS 475.300 to 475.346, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475.314 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under sections 3 to 70, chapter 1, Oregon Laws 2015, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

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

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

(b) May establish different minimum packaging standards for persons registered under ORS 475.300 to 475.346 and persons licensed under sections 3 to 70, chapter 1, Oregon Laws 2015;

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

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

(e) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

SECTION 104. (1) As used in this section:

(a) "Licensee" has the meaning given that term in section 5, chapter 1, Oregon Laws 2015.

(b) "Registrant" means a person registered under ORS 475.300 to 475.346.

(2) The Oregon Liquor Control Commission may by rule require a licensee, and the Oregon Health Authority may by rule require a registrant, to submit packaging intended for a marijuana item for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item packaged in the packaging. The commission shall determine whether packaging submitted under this section complies with section 103 of this 2015 Act and any rule adopted under section 103 of this 2015 Act.

(3) The commission may impose a fee for submitting packaging for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section.

SECTION 105. (1) The Oregon Health Authority shall adopt rules establishing:

(a) The maximum concentration of tetrahydrocannabinol that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract; and

(b) The number of servings that are permitted in a cannabinoid product or cannabinoid concentrate or extract package.

(2) In adopting rules under ORS 475.300 to 475.346, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475.314 to meet the concentration standards adopted by rule pursuant to subsection (1) of this section.

(3) In adopting rules under sections 3 to 70, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, to meet the concentration standards adopted by rule pursuant to subsection (1) of this section.

SECTION 106. Sections 100 to 112 of this 2015 Act do not apply to:

(1) A person responsible for a marijuana grow site under ORS 475.304 if the person is transferring usable marijuana or an immature marijuana plant, as defined in section 5, chapter 1, Oregon Laws 2015, to:

(a) A person who holds a registry identification card under ORS 475.309 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(b) A person who has been designated as the primary caregiver under ORS 475.312 of a person who holds a registry identification card under ORS 475.309, and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(2) A person who has been designated as the primary caregiver under ORS 475.312 of a person who holds a registry identification card under ORS 475.309 if the person is transferring a marijuana item to the person who holds a registry identification card.

SECTION 107. To ensure compliance with sections 100 to 112 of this 2015 Act and any rule adopted under sections 100 to 112 of this 2015 Act, the Oregon Health Authority may inspect the premises of:

(1) A medical marijuana dispensary registered under ORS 475.314; and

(2) A person that processes marijuana to test cannabinoid products or cannabinoid concentrates or extracts for the purpose of transferring the cannabinoid products or cannabinoid concentrates or extracts to a medical marijuana dispensary registered under ORS 475.314.

SECTION 108. To ensure compliance with sections 100 to 112 of this 2015 Act and any rule adopted under sections 100 to 112 of this 2015 Act, the Oregon Liquor Control Commission may inspect the premises of a person that holds a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

SECTION 109. Subject to the applicable provisions of ORS chapter 183, if a person violates a provision of sections 100 to 112 of this 2015 Act or a rule adopted under a provision of sections 100 to 112 of this 2015 Act, the Oregon Health Authority may:

(1) Refuse to register a person under ORS 475.300 to 475.346;

(2) Suspend activities conducted by a registrant pursuant to ORS 475.300 to 475.346; or

(3) Remove a registrant from a registry kept pursuant to ORS 475.300 to 475.346.

SECTION 110. Subject to the applicable provisions of ORS chapter 183, if the applicant or licensee violates a provision of sections 100 to 112 of this 2015 Act or a rule adopted under a provision of sections 100 to 112 of this 2015 Act, the Oregon Liquor Control Commission may refuse to issue or renew, or may suspend or revoke, a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

SECTION 111. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of sections 100 to 112 of this 2015 Act, or a rule adopted under a provision of sections 100 to 112 of this 2015 Act, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this subsection in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under sections 100 to 112 of this 2015 Act.

SECTION 112. The rules of the Oregon Health Authority adopted under ORS 475.314 (8) as that statute was in effect before the operative date specified in section 178 of this 2015 Act continue in effect until superseded or repealed by rules of the authority or of the commission adopted under sections 100 to 112 of this 2015 Act.

**RESEARCH CERTIFICATE
OPERATIVE NOVEMBER 15, 2015**

SECTION 113. (1) The Oregon Liquor Control Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, shall establish a program for the purpose of identifying and certifying private and public researchers of cannabis.

(2)(a) The authority shall assist the commission in identifying candidates for certification under this section with respect to potential medical research.

(b) The department shall assist the commission in identifying candidates for certification under this section with respect to potential agricultural research.

(3) Subject to subsection (4) of this section, the commission shall adopt by rule or order:

(a) Qualifications for certification under this section;

(b) The term of a certificate issued under this section;

(c) Processes for applying for, receiving and renewing a certificate under this section;

(d) Procedures for tracking marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts received by and disposed or otherwise made use of by a person certified under this section; and

(e) Procedures for disposing or otherwise making use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(4) In establishing qualifications under subsection (3) of this section, the commission shall consider the following:

(a) A research applicant's access to funding and the overall cost of the proposed research;

(b) The overall benefit of an applicant's proposed research to this state's cannabis industry or to public health and safety; and

(c) Legal barriers to conducting the proposed research or legal risks associated with conducting the proposed research.

(5) A person certified under this section:

(a) May receive marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts from a licensee or a registrant under ORS 475.300 to 475.346; and

(b) May not sell or otherwise transfer marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts to any other person, except as provided in rules adopted by the commission under subsection (3)(e) of this section.

(6) Except as otherwise provided by the commission by rule, rules adopted by the commission for the purpose of administering and enforcing sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to licensees and licensee representatives apply to persons certified under this section and persons employed by or who otherwise perform work for persons certified under this section.

(7) A person who is certified under this section, and an employee of or other person who performs work for a person certified under this section, is exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery and manufacture of marijuana, or any other criminal of-

fense in which possession, delivery or manufacture of marijuana is an element, while performing activities related to conducting research as described in this section.

**CANNABINOID EDIBLES
OPERATIVE JANUARY 1, 2016**

SECTION 114. (1) Notwithstanding the authority granted to the State Department of Agriculture under ORS chapters 571, 618 and 633 and ORS 632.206 to 632.260, 632.275 to 632.290, 632.450 to 632.490, 632.516 to 632.625, 632.705 to 632.815, 632.835 to 632.850 and 632.900 to 632.985, the department may not exercise authority over marijuana items or a licensee, except that ORS 618.121 to 618.161, 618.991, 618.995, 633.311 to 633.479, 633.992 and 633.994 apply to marijuana items or to a licensee.

(2) In exercising its authority under ORS chapter 616, the department may not:

(a) Establish standards for marijuana as a food additive, as defined in ORS 616.205;

(b) Consider marijuana to be an adulterant, unless the concentration of a cannabinoid in a cannabinoid product, cannabinoid concentrate or cannabinoid extract exceeds acceptable levels established by the Oregon Health Authority by rule; or

(c) Apply ORS 616.256, 616.265, 616.270 or 616.275 to cannabinoid edibles or enforce ORS 616.256, 616.265, 616.270 or 616.275 with respect to cannabinoid edibles.

SECTION 115. ORS 616.010 is amended to read:

616.010. The duty of administration and enforcement of all regulatory legislation applying to:

(1) The production, processing and distribution of all food products or commodities of agricultural origin shall, in addition to such further legislation as shall specifically name the State Department of Agriculture as the administering agency, be performed by the department to the exclusion of any other department not so specifically named, **except as provided in section 114 of this 2015 Act.**

(2) The sanitation of establishments where food or drink is consumed on the premises where sold, or to sanitary practices used in such establishments, shall be performed by the Oregon Health Authority.

**MEDICAL MARIJUANA GROW SITE OPT-IN
OPERATIVE JANUARY 1, 2016**

SECTION 116. (1) A person responsible for a marijuana grow site under ORS 475.304 may apply for a license under section 19, chapter 1, Oregon Laws 2015, to produce marijuana at the address of the marijuana grow site, provided that all individuals registered with the Oregon Health Authority to produce marijuana at the address are listed on the application submitted to the Oregon Liquor Control Commission under section 28, chapter 1, Oregon Laws 2015.

(2) Notwithstanding any other provision of sections 3 to 70, chapter 1, Oregon Laws 2015, the commission may issue a license under section 19, chapter 1, Oregon Laws 2015, to a person responsible for a marijuana grow site under ORS 475.304 if the person responsible for the marijuana grow site:

(a) Meets any criminal background check requirements established by the commission by rule;

(b) Agrees to be subject to the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, including section 59, chapter 1, Oregon Laws 2015, and section 34 of this 2015 Act, and rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, that apply to marijuana producers; and

(c) Submits proof, in a form and manner prescribed by the commission, of having obtained the permission to apply for licensure under section 19, chapter 1, Oregon Laws 2015,

of each individual who holds a registry identification card issued under ORS 475.309 for whom the person produces marijuana at the address of the marijuana grow site.

(3) The commission by rule or order may waive the application of any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, to a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015.

(4) A person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015:

(a) May not possess more than the amount or number of marijuana plants permitted pursuant to ORS 475.300 to 475.346;

(b) Must allow each marijuana plant to be tracked using the system developed and maintained under section 23 of this 2015 Act;

(c) May sell immature marijuana plants and usable marijuana in excess of amounts produced for individuals who hold a registry identification card issued under ORS 475.309 to a person who holds a license under section 20, 21 or 22, chapter 1, Oregon Laws 2015, in accordance with rules adopted by the commission; and

(d) May transfer marijuana and usable marijuana to other registrants under ORS 475.300 to 475.346 in accordance with rules adopted by the authority.

(5) In a form and manner prescribed by the commission, a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015, may surrender the person's license. If the person surrenders the person's license, the person is no longer subject to the provisions of this section.

(6) Notwithstanding ORS 475.331, the authority may provide information to the commission as is necessary for the commission to determine whether a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015, is in compliance with this section.

(7) This section does not prohibit or otherwise restrict the duties, functions and powers of a person responsible for a marijuana grow site as set forth in ORS 475.300 to 475.346, except that the person is not subject to any requirement related to the reporting or tracking of mature marijuana plants and usable marijuana.

CANNABIS EDUCATION PROGRAM EFFECTIVE ON PASSAGE

SECTION 117. (1) As part of the comprehensive alcohol and drug abuse policy and implementation plan described in ORS 336.222, the Oregon Health Authority, State Board of Education and Alcohol and Drug Policy Commission shall collaborate on developing marijuana abuse prevention curricula and public information programs for students, parents, teachers, administrators and school board members.

(2) In the manner provided by ORS 192.245, the authority shall report on the implementation of this section to the Legislative Assembly on or before February 1 of each odd-numbered year.

SECTION 118. Notwithstanding section 117 (2) of this 2015 Act, the Oregon Health Authority shall first report on the implementation of section 117 of this 2015 Act and may make recommendations for legislation, including recommendations related to the use of moneys collected as a tax from businesses involved in marijuana operations, to the Legislative Assembly on or before February 1, 2016.

CRIMES EFFECTIVE ON PASSAGE

SECTION 119. ORS 475.858 is amended to read:

475.858. (1) It is unlawful for any person to manufacture marijuana within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture of marijuana within 1,000 feet of a school is a Class A felony.

(3) This section does not apply to:

(a) A licensee or licensee representative, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that is engaged in lawful activities; or

(b) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015.

SECTION 120. ORS 475.862 is amended to read:

475.862. (1) It is unlawful for any person to deliver marijuana within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful delivery of marijuana within 1,000 feet of a school is a Class A felony.

(3) This section does not apply to:

(a) A licensee or licensee representative, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that is engaged in lawful activities; or

(b) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015.

SECTION 121. ORS 475.856, as amended by section 77, chapter 1, Oregon Laws 2015, is amended to read:

475.856. (1) **As used in this section, “homegrown,” “household,” “license” and “licensee representative” have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.**

[(1)] (2) Except for licensees and licensee representatives that are engaged in lawful activities [as defined in subsections (10) and (11) of section 5 of this Act], and except for a person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015 [subsection (1) of section 6 of this Act], it is unlawful for any person to manufacture marijuana.

[(2)] (3) Unlawful manufacture of marijuana is a Class [B] C felony.

[(3)] (3) Notwithstanding subsection [(2)] (3) of this section, unlawful manufacture of marijuana is a Class B misdemeanor[,] if a person 21 years of age or older manufactures homegrown marijuana at a household and the total number of homegrown marijuana plants at the household exceeds four marijuana plants but does not exceed eight marijuana plants.

[(4) As used in subsection (3) of this section, the terms “homegrown” and “household” have the meanings given to them in section 5 of this Act.]

SECTION 122. ORS 475.860, as amended by section 78, chapter 1, Oregon Laws 2015, is amended to read:

475.860. (1) Except for licensees and licensee representatives, **as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that are engaged in lawful activities** *[as defined in subsections (10) and (11) of section 5 of this Act]*, and except for a person acting within the scope of and in compliance with **section 6 (1), chapter 1, Oregon Laws 2015** *[subsection (1) of section 6 of this Act]*, it is unlawful for any person to deliver marijuana.

(2) Unlawful delivery of marijuana is a[:] **Class A misdemeanor.**

[(a) Class B felony if the delivery is for consideration.]

[(b) Class C felony if the delivery is for no consideration.]

(3) Notwithstanding subsection (2) of this section, unlawful delivery of marijuana is a:

(a) Class A *[misdemeanor]* **violation**, if the delivery is for no consideration and consists of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae; or

(b) Violation, if the delivery is for no consideration and consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this paragraph is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.

(4) Notwithstanding subsections (2) and (3) of this section, unlawful delivery of marijuana is a[.] **Class C felony, if the delivery is to a person under 18 years of age and the defendant is at least 21 years of age.**

[(a) Class A felony, if the delivery is to a person under 18 years of age and the defendant is at least 18 years of age and is at least three years older than the person to whom the marijuana is delivered; or]

[(b) Class C misdemeanor, if the delivery:]

[(A) Is for no consideration;]

[(B) Consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae;]

[(C) Takes place in a public place, as defined in ORS 161.015, that is within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors; and]

[(D) Is to a person who is 18 years of age or older.]

SECTION 123. ORS 475.864, as amended by section 79, chapter 1, Oregon Laws 2015, is amended to read:

475.864. (1) As used in subsections (2) to (4) of this section:

(a) “Marijuana” means the leaves, stems[,] and flowers of the plant Cannabis family Moraceae.

(b) “Marijuana product” has the meaning given the term “marijuana” in ORS 475.005 (16), but does not include the leaves, stems and flowers of the plant Cannabis family Moraceae.

(2) It is unlawful for any person under 21 years of age knowingly or intentionally to possess marijuana or marijuana product.

(3)(a) Unlawful possession of *[four]* **more than eight** avoirdupois ounces *[or more]* of marijuana by a person under 21 years of age is a Class *[C felony]* **A misdemeanor.**

(b) Unlawful possession of **more than** one avoirdupois ounce of marijuana *[or more]*, but less than *[four]* **eight** avoirdupois ounces, by a person under 21 years of age is a Class B misdemeanor.

(c) Unlawful possession of *[less than]* one avoirdupois ounce **or less** of marijuana by a person under 21 years of age is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.

(4)(a) Unlawful possession of *[one-quarter avoirdupois ounce or more]* **more than 16 avoirdupois ounces** of marijuana product **in a solid form or more than 72 ounces of marijuana product in a liquid form** by a person under 21 years of age is a Class *[C felony]* **A misdemeanor.**

(b) Unlawful possession of *[less than one-quarter avoirdupois ounce]* **16 avoirdupois ounces or less** of marijuana product **in a solid form or 72 ounces or less of marijuana product in a liquid form** by a person under 21 years of age is a Class B misdemeanor.

(5) As used in subsections (6) to (8) of this section, *[the terms]* **“cannabinoid concentrate,” “cannabinoid extract,” “cannabinoid product,”** “licensee,” “licensee representative,” “marijuana,” *["marijuana extracts,” “marijuana products,”]* “marijuana retailer,” “public place[,]” and “usable marijuana” have the meanings given *[to them]* **those terms** in section 5, chapter 1, Oregon Laws 2015 *[of this Act]*.

(6) Except for licensees and licensee representatives **acting in accordance with sections 3 to 70, chapter 1, Oregon Laws 2015, and any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015,** it is unlawful for any person 21 years of age or older knowingly or intentionally to possess:

(a) More than one ounce of usable marijuana in a public place.

(b) More than eight ounces of usable marijuana.

(c) More than *[sixteen]* **16** ounces of *[marijuana]* **cannabinoid** products in solid form **or cannabinoid concentrates.**

(d) More than *[seventy-two]* **72** ounces of *[marijuana]* **cannabinoid** products in liquid form.

(e) More than one ounce of *[marijuana extracts]* **cannabinoid extracts.**

(f) *[Any marijuana extracts that were]* **A cannabinoid extract that was** not purchased from a *[licensed]* marijuana retailer **that holds a license under section 22, chapter 1, Oregon Laws 2015.**

(7) A violation of *[paragraphs (a) to (e) of]* subsection (6)(a) to (e) of this section is a:

(a) Class *[C felony]* **A misdemeanor**, if the amount possessed is more than four times the applicable maximum amount specified in subsection (6)(a) to (e) of this section;

(b) Class B misdemeanor, if the amount possessed is more than two times, but not more than four times, the applicable maximum amount specified in subsection (6)(a) to (e) of this section; or

(c) Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection (6)(a) to (e) of this section.

(8) A violation of *[paragraph (f) of]* subsection (6)(f) of this section is a:

(a) Class C felony, if the amount possessed is more than one-quarter ounce of *[such marijuana extracts]* **the cannabinoid extract**; or

(b) Class B misdemeanor, if the amount possessed is not more than one-quarter ounce of *[such marijuana extracts]* **the cannabinoid extract.**

SECTION 124. ORS 475.752, as amended by section 76, chapter 1, Oregon Laws 2015, is amended to read:

475.752. (1) Except for licensees and licensee representatives, **as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that are engaged in lawful activities** *[as defined in subsections (10) and (11) of section 5 of this Act]*, and except for a person acting within the scope of and in compliance with **section 6 (1), chapter 1, Oregon Laws 2015** *[subsection (1) of section 6 of this Act]*, and except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture or deliver a controlled substance. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.

(b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise provided in ORS 475.858, 475.860, 475.862, 475.878, 475.880, 475.882, 475.904 and 475.906.

(c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise provided in ORS 475.904 and 475.906.

(d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to create or deliver a counterfeit substance. Any person who violates this subsection with respect to:

(a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

(b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

(c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

(d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

(3) It is unlawful for any person knowingly or intentionally to possess a controlled substance, other than marijuana, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class B felony, except as otherwise provided in ORS 475.894.

(b) A controlled substance in Schedule II, is guilty of a Class C felony, except as otherwise provided in ORS 475.864.

(c) A controlled substance in Schedule III, is guilty of a Class A misdemeanor.

(d) A controlled substance in Schedule IV, is guilty of a Class C misdemeanor.

(e) A controlled substance in Schedule V, is guilty of a violation.

(4) In any prosecution under this section for manufacture, possession or delivery of that plant of the genus *Lophophora* commonly known as peyote, it is an affirmative defense that the peyote is being used or is intended for use:

- (a) In connection with the good faith practice of a religious belief;
- (b) As directly associated with a religious practice; and
- (c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

(5) The affirmative defense created in subsection (4) of this section is not available to any person who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

(6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or delivers a controlled substance in Schedule IV and who thereby causes death to another person is guilty of a Class C felony.

(b) For purposes of this subsection, causation is established when the controlled substance plays a substantial role in the death of the other person.

SECTION 125. ORS 161.705, as amended by section 2, chapter ___, Oregon Laws 2015 (Enrolled Senate Bill 364), is amended to read:

161.705. Notwithstanding ORS 161.525, the court may enter judgment of conviction for a Class A misdemeanor and make disposition accordingly when:

(1)(a) A person is convicted of any Class C felony; **or**

[*(b) A person is convicted of a Class B felony pursuant to ORS 475.860 (2)(a); or*]

[*(c)*] **(b)** A person convicted of a felony described in paragraph (a) [*or (b)*] of this subsection, of possession **or delivery** of marijuana constituting a Class B felony, or of a Class A felony pursuant to ORS 166.720, has successfully completed a sentence of probation; and

(2) The court, considering the nature and circumstances of the crime and the history and character of the defendant, believes that it would be unduly harsh to sentence the defendant for a felony.

SECTION 126. ORS 475.900 is amended to read:

475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

(a) The violation constitutes delivery or manufacture of a controlled substance and involves substantial quantities of a controlled substance. For purposes of this paragraph, the following amounts constitute substantial quantities of the following controlled substances:

- (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;
- (B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;
- (C) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;
- (D) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
- (E) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or
- (F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

- (i) 3,4-methylenedioxymphetamine;
- (ii) 3,4-methylenedioxymphetamine; or
- (iii) 3,4-methylenedioxymphetamine.

(b) The violation constitutes possession, delivery or manufacture of a controlled substance and the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at least three of the following factors:

- (A) The delivery was of heroin, cocaine, methamphetamine, lysergic acid diethylamide, psilocybin or psilocin and was for consideration;
- (B) The offender was in possession of \$300 or more in cash;

(C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a controlled substance offense;

(D) The offender was in possession of materials being used for the packaging of controlled substances such as scales, wrapping or foil, other than the material being used to contain the substance that is the subject of the offense;

(E) The offender was in possession of drug transaction records or customer lists;

(F) The offender was in possession of stolen property;

(G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled substance offense;

(H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

(I) The offender was using public lands for the manufacture of controlled substances;

(J) The offender had constructed fortifications or had taken security measures with the potential of injuring persons; or

(K) The offender was in possession of controlled substances in an amount greater than:

(i) Three grams or more of a mixture or substance containing a detectable amount of heroin;

(ii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;

(iii) Eight grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(iv) Twenty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

(v) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

(vi) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(I) 3,4-methylenedioxyamphetamine;

(II) 3,4-methylenedioxymethamphetamine; or

(III) 3,4-methylenedioxy-N-ethylamphetamine.

(c) The violation constitutes a violation of ORS 475.848, 475.852, 475.862, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

(d) The violation constitutes manufacturing methamphetamine and the manufacturing consists of:

(A) A chemical reaction involving one or more precursor substances for the purpose of manufacturing methamphetamine; or

(B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of manufacturing methamphetamine.

(e) The violation constitutes [*a violation of ORS 475.860 (4)(a) or*] a violation of ORS 475.906 (1) or (2) that is not described in ORS 475.907.

(2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

(a) The violation constitutes delivery of heroin, cocaine, methamphetamine or 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

(b) The violation constitutes possession of:

(A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

(B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

(C) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(D) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

(E) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

(F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(i) 3,4-methylenedioxyamphetamine;

(ii) 3,4-methylenedioxymethamphetamine; or

(iii) 3,4-methylenedioxy-N-ethylamphetamine.

(3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection (1) or (2) of this section shall be classified as:

(a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a controlled substance; or

(b) Crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves possession of a controlled substance.

(4) In order to prove a commercial drug offense, the state shall plead in the accusatory instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

(5) As used in this section, "mixture or substance" means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense.

SECTION 127. ORS 475.904 is amended to read:

475.904. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture or deliver a schedule I, II or III controlled substance within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture or delivery of a controlled substance within 1,000 feet of a school is a Class A felony[, *except as otherwise provided in ORS 475.860*].

(3) This section does not apply to:

(a) A licensee or licensee representative, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that is engaged in lawful activities; or

(b) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015.

SECTION 128. The amendments to statutes by sections 119 to 127 of this 2015 Act apply to conduct occurring on or after the effective date of this 2015 Act.

SECTION 129. When a person convicted of a marijuana offense based on conduct that occurs before the effective date of this 2015 Act files a motion for a court order setting aside the conviction pursuant to ORS 137.225, the court shall consider the offense to be classified under ORS 161.535 or 161.555 as if the conduct occurred on or after the effective date of this 2015 Act, or if the offense is no longer a crime, the court shall consider the offense to be classified as a Class C misdemeanor, when determining if the person is eligible for the order.

RETAIL DRUG OUTLETS EFFECTIVE ON PASSAGE

SECTION 130. Section 131 of this 2015 Act is added to and made a part of ORS chapter 689.

SECTION 131. (1) The State Board of Pharmacy shall establish by rule instructions for the disposal of marijuana left behind by individuals visiting retail drug outlets.

(2) At a minimum, the instructions established under subsection (1) of this section must:

(a) Require an employee or supervisor of the retail drug outlet to notify law enforcement upon discovering marijuana at the site; and

(b) Include procedures for destroying the marijuana so that it can no longer be used for human consumption.

(3) A person acting under and in accordance with this section is exempt from the criminal laws of this state for any criminal offense in which possession of marijuana is an element.

TASK FORCE EFFECTIVE ON PASSAGE

SECTION 132. (1)(a) The Task Force on Cannabis Environmental Best Practices is established, consisting of 13 members appointed as follows:

(A) The President of the Senate shall appoint one member from among members of the Senate;

(B) The Senate Minority Leader shall appoint one member from among members of the Senate;

(C) The Speaker of the House shall appoint one members from among members of the House of Representatives;

(D) The House Minority Leader shall appoint one member from among members of the House of Representatives; and

(E) The Governor shall appoint nine representatives from among the following:

(i) One individual who represents utilities;

(ii) One individual who represents electricians;

(iii) Two individuals who represent the cannabis industry;

(iv) One individual who represents the State Department of Agriculture;

(v) One individual who represents the Water Resources Department;

(vi) One individual who represents the Public Utility Commission;

(vii) One individual who represents the State Department of Energy; and

(viii) One individual who the Energy Trust of Oregon.

(b) In making appointments under paragraph (a) of this subsection, the President of the Senate, the Senate Minority Leader, the Speaker of the House and the House Minority Leader shall appoint, if available, members of the Senate and members of the House of Representatives who served on the Joint Committee on Implementing Measure 91 during the 2015 regular session of the Legislative Assembly.

(2) The task force shall study the use of electricity and water by, and the agricultural practices associated with, the growing of cannabis by persons who hold a license under section 19, chapter 1, Oregon Laws 2015, and by persons who are responsible for a marijuana grow site under ORS 475.304. As part of the report submitted under subsection (9) of this section, the task force shall include suggestions related to environmental best practices for the propagating, producing and harvesting of cannabis.

(3) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(4) Official action by the task force requires the approval of a majority of the voting members of the task force.

(5) The task force shall elect one of its members to serve as chairperson.

(6) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(7) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(8) The task force may adopt rules necessary for the operation of the task force.

(9) The task force shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to an interim committee of the Legislative Assembly related to the regulation of cannabis as appropriate no later than September 15, 2016.

(10) The Oregon Liquor Control Commission shall provide staff support to the task force.

(11) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to Oregon Liquor Control Commission for purposes of the task force.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

LOCAL OPTION EFFECTIVE ON PASSAGE

SECTION 133. (1) As used in this section, “qualifying city or county” means a county, or a city located in a county, in which not less than 55 percent of votes cast in the county during the statewide general election held on November 4, 2014, on Ballot Measure 91 (chapter 1, Oregon Laws 2015) were in opposition to the ballot measure.

(2)(a) The governing body of a qualifying city or county may adopt ordinances that prohibit the establishment of any one or more of the following in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of the county:

- (A) Marijuana processing sites registered under section 85 of this 2015 Act;
- (B) Medical marijuana dispensaries registered under ORS 475.314;
- (C) Marijuana producers licensed under section 19, chapter 1, Oregon Laws 2015;
- (D) Marijuana processors licensed under section 20, chapter 1, Oregon Laws 2015;
- (E) Marijuana wholesalers licensed under section 21, chapter 1, Oregon Laws 2015;
- (F) Marijuana retailers licensed under section 22, chapter 1, Oregon Laws 2015; or
- (G) Any combination of the entities described in this subsection.

(b) The governing body of a qualifying city or county may not adopt an ordinance under this section later than 180 days after the effective date of this 2015 Act.

(3) If the governing body of a qualifying city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance:

(a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a medical marijuana dispensary registered under ORS 475.314 or a marijuana processing site registered under section 85 of this 2015 Act; or

(b) To the Oregon Liquor Control Commission, if the ordinance concerns a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(4)(a) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue registering those entities to which the prohibition applies.

(b) Upon receiving notice of a prohibition under subsection (3) of this section, the commission shall discontinue licensing those premises to which the prohibition applies.

(5) Notwithstanding any other provisions of law, a qualifying city or county that adopts an ordinance under this section may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

(6) Notwithstanding subsection (2) of this section, a medical marijuana dispensary is not subject to an ordinance adopted under this section if the medical marijuana dispensary:

- (a) Is registered under ORS 475.314 on or before the date on which the governing body adopts the ordinance; and
- (b) Has successfully completed a city or county land use application process.

(7) Notwithstanding subsection (2) of this section, a marijuana processing site is not subject to an ordinance adopted under this section if the marijuana processing site:

(a) Is registered under section 85 of this 2015 Act on or before the date on which the governing body adopts the ordinance; and

(b) Has successfully completed a city or county land use application process.

SECTION 134. (1) The governing body of a city or county may adopt ordinances to be referred to the electors of the city or county as described in subsection (2) of this section that prohibit or allow the establishment of any one or more of the following in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of the county:

(a) Marijuana processing sites registered under section 85 of this 2015 Act;

(b) Medical marijuana dispensaries registered under ORS 475.314;

(c) Marijuana producers licensed under section 19, chapter 1, Oregon Laws 2015;

(d) Marijuana processors licensed under section 20, chapter 1, Oregon Laws 2015;

(e) Marijuana wholesalers licensed under section 21, chapter 1, Oregon Laws 2015;

(f) Marijuana retailers licensed under section 22, chapter 1, Oregon Laws 2015; or

(g) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county adopts an ordinance under this section, the governing body shall submit the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance:

(a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a medical marijuana dispensary registered under ORS 475.314 or a marijuana processing site registered under section 85 of this 2015 Act; or

(b) To the Oregon Liquor Control Commission, if the ordinance concerns a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(4)(a) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue registering those entities to which the prohibition applies until the date of the next statewide general election.

(b) Upon receiving notice of a prohibition under subsection (3) of this section, the commission shall discontinue licensing those premises to which the prohibition applies until the date of the next statewide general election.

(5) Notwithstanding any other provisions of law, a city or county that adopts an ordinance under this section that prohibits the establishment of an entity described in subsection (1) of this section may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

(6) Notwithstanding subsection (1) of this section, a medical marijuana dispensary is not subject to an ordinance adopted under this section if the medical marijuana dispensary:

(a) Is registered under ORS 475.314 on or before the date on which the governing body adopts the ordinance; and

(b) Has successfully completed a city or county land use application process.

(7) Notwithstanding subsection (1) of this section, a marijuana processing site is not subject to an ordinance adopted under this section if the marijuana processing site:

(a) Is registered under section 85 of this 2015 Act on or before the date on which the governing body adopts the ordinance; and

(b) Has successfully completed a city or county land use application process.

SECTION 135. (1) Notwithstanding sections 133 and 134 of this 2015 Act, a medical marijuana dispensary is not subject to an ordinance adopted pursuant to section 133 or 134 of this 2015 Act if the medical marijuana dispensary:

(a) Was registered under ORS 475.314, or has applied to be registered under ORS 475.314, on or before July 1, 2015; and

(b) Has successfully completed a city or county land use application process.

(2) This section does not apply to a medical marijuana dispensary if the Oregon Health Authority revokes the registration of the medical marijuana dispensary.

SECTION 136. (1) Notwithstanding sections 133 and 134 of this 2015 Act, a marijuana processing site is not subject to an ordinance adopted pursuant to section 133 or 134 of this 2015 Act if the person responsible for the marijuana processing site or applying to be the person responsible for the marijuana processing site:

(a) Was registered under ORS 475.300 to 475.346 on or before July 1, 2015;

(b) Was processing usable marijuana as described in section 85 (1) of this 2015 Act on or before July 1, 2015; and

(c) Has successfully completed a city or county land use application process.

(2) This section does not apply to a marijuana processing site if the Oregon Health Authority revokes the registration of the marijuana processing site.

OTHER AMENDMENTS

(Operative January 1, 2016)

SECTION 137. ORS 133.005 is amended to read:

133.005. As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires otherwise:

(1) “Arrest” means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense. A “stop” as authorized under ORS 131.605 to 131.625 is not an arrest.

(2) “Federal officer” means a special agent or law enforcement officer employed by a federal agency who is empowered to effect an arrest with or without a warrant for violations of the United States Code and who is authorized to carry firearms in the performance of duty.

(3) “Peace officer” means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.383 or 353.125;

(c) An investigator of a district attorney’s office if the investigator is or has been certified as a peace officer in this or any other state;

(d) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon;

(e) A humane special agent as defined in ORS 181.435;

(f) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2);

(g) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011; or

(h) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647.

(4) “Reserve officer” means an officer or member of a law enforcement agency who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or a member of the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

SECTION 138. ORS 133.005, as amended by section 39, chapter 644, Oregon Laws 2011, section 7, chapter 54, Oregon Laws 2012, section 4, chapter 67, Oregon Laws 2012, section 5, chapter 154, Oregon Laws 2013, and section 9, chapter 180, Oregon Laws 2013, is amended to read:

133.005. As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires otherwise:

(1) “Arrest” means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense. A “stop” as authorized under ORS 131.605 to 131.625 is not an arrest.

(2) “Federal officer” means a special agent or law enforcement officer employed by a federal agency who is empowered to effect an arrest with or without a warrant for violations of the United States Code and who is authorized to carry firearms in the performance of duty.

(3) “Peace officer” means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.383 or 353.125;

(c) An investigator of a district attorney’s office if the investigator is or has been certified as a peace officer in this or any other state;

(d) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon;

(e) A humane special agent as defined in ORS 181.435;

(f) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2); or

(g) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647.

(4) “Reserve officer” means an officer or member of a law enforcement agency who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or a member of the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

SECTION 139. ORS 133.525 is amended to read:

133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

(1) “Judge” means any judge of the circuit court, the Court of Appeals, the Supreme Court, any justice of the peace or municipal judge authorized to exercise the powers and perform the duties of a justice of the peace.

(2) “Police officer” means:

(a) A member of the Oregon State Police;

(b) A sheriff or municipal police officer, a police officer commissioned by a university under ORS 352.383 or 353.125 or an authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;

(c) An investigator of a district attorney’s office if the investigator is or has been certified as a peace officer in this or any other state;

(d) An investigator of the Criminal Justice Division of the Department of Justice;

(e) A humane special agent as defined in ORS 181.435; or

(f) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

SECTION 140. ORS 133.525, as amended by section 40, chapter 644, Oregon Laws 2011, section 9, chapter 54, Oregon Laws 2012, section 6, chapter 67, Oregon Laws 2012, and section 11, chapter 180, Oregon Laws 2013, is amended to read:

133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

(1) “Judge” means any judge of the circuit court, the Court of Appeals, the Supreme Court, any justice of the peace or municipal judge authorized to exercise the powers and perform the duties of a justice of the peace.

- (2) "Police officer" means:
- (a) A member of the Oregon State Police;
 - (b) A sheriff or municipal police officer or a police officer commissioned by a university under ORS 352.383 or 353.125;
 - (c) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state;
 - (d) An investigator of the Criminal Justice Division of the Department of Justice;
 - (e) A humane special agent as defined in ORS 181.435; or
 - (f) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

SECTION 141. ORS 133.721 is amended to read:

133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

(1) "Aggrieved person" means a person who was a party to any wire, electronic or oral communication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was directed and who alleges that the interception was unlawful.

(2) "Contents," when used with respect to any wire, electronic or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport or meaning of that communication.

(3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic, photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:

(a) Any oral communication or any communication that is completely by wire; or

(b) Any communication made through a tone-only paging device.

(4) "Electronic, mechanical or other device" means any device or apparatus that can be used to intercept a wire, electronic or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its business and that is being used by the subscriber or user in the ordinary course of its business or being used by a telecommunications carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of official duties; or

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(5) "Intercept" means the acquisition, by listening or recording, of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device.

(6) "Investigative or law enforcement officer" means:

(a) An officer or other person employed to investigate or enforce the law by:

(A) A county sheriff or municipal police department, or a police department established by a university under ORS 352.383 or 353.125;

(B) The Oregon State Police, the Department of Corrections, the Attorney General or a district attorney; or

(C) Law enforcement agencies of other states or the federal government;

(b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011; or

(c) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

(7) "Oral communication" means:

(a) Any oral communication, other than a wire or electronic communication, uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation; or

(b) An utterance by a person who is participating in a wire or electronic communication, if the utterance is audible to another person who, at the time the wire or electronic communication occurs, is in the immediate presence of the person participating in the communication.

(8) "Telecommunications carrier" means:
(a) A telecommunications utility as defined in ORS 759.005; or
(b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications services.

(9) "Telecommunications service" has the meaning given that term in ORS 759.005.

(10) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception, whether furnished or operated by a public utility or privately owned or leased.

SECTION 142. ORS 133.721, as amended by section 70, chapter 644, Oregon Laws 2011, section 11, chapter 54, Oregon Laws 2012, and section 13, chapter 180, Oregon Laws 2013, is amended to read:

133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

(1) "Aggrieved person" means a person who was a party to any wire, electronic or oral communication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was directed and who alleges that the interception was unlawful.

(2) "Contents," when used with respect to any wire, electronic or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport or meaning of that communication.

(3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic, photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:

(a) Any oral communication or any communication that is completely by wire; or

(b) Any communication made through a tone-only paging device.

(4) "Electronic, mechanical or other device" means any device or apparatus that can be used to intercept a wire, electronic or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its business and that is being used by the subscriber or user in the ordinary course of its business or being used by a telecommunications carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of official duties; or

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(5) "Intercept" means the acquisition, by listening or recording, of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device.

(6) "Investigative or law enforcement officer" means:

(a) An officer or other person employed to investigate or enforce the law by:

(A) A county sheriff or municipal police department, or a police department established by a university under ORS 352.383 or 353.125;

(B) The Oregon State Police, the Department of Corrections, the Attorney General or a district attorney; or

(C) Law enforcement agencies of other states or the federal government; or

(b) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

(7) "Oral communication" means:

(a) Any oral communication, other than a wire or electronic communication, uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation; or

(b) An utterance by a person who is participating in a wire or electronic communication, if the utterance is audible to another person who, at the time the wire or electronic communication occurs, is in the immediate presence of the person participating in the communication.

(8) "Telecommunications carrier" means:

- (a) A telecommunications utility as defined in ORS 759.005; or
- (b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications services.

(9) "Telecommunications service" has the meaning given that term in ORS 759.005.

(10) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception, whether furnished or operated by a public utility or privately owned or leased.

SECTION 143. ORS 133.726 is amended to read:

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

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

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

- (a) The name of the applicant and the applicant's authority to make the application;
- (b) A statement demonstrating that there is probable cause to believe that a person whose oral communication is to be intercepted is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008, and that intercepting the oral communication will yield evidence thereof; and

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

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

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

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

(b) There is probable cause to believe that the oral communication to be obtained will contain evidence concerning that crime.

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

- (a) The identity of the person, if known, whose oral communication is to be intercepted;
- (b) A statement identifying the particular crime to which the oral communication is expected to relate;
- (c) The agency authorized under the order to intercept the oral communication;
- (d) The name and office of the applicant and the signature and title of the issuing judge;
- (e) A period of time after which the order shall expire; and
- (f) A statement that the order authorizes only the interception of an oral communication to which a law enforcement officer or a person under the direct supervision of a law enforcement officer is a party.

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

(a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 or 475.906 or as a misdemeanor under ORS 167.007 or 167.008; or

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

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

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

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

(b) To a magistrate;

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

(d) In compliance with a court order.

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

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

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

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

(B) A political subdivision, agency, department or bureau of the governments described in subparagraph (A) of this paragraph; or

(C) A police department established by a university under ORS 352.383 or 353.125;

(b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011; or

(c) A [*liquor enforcement inspector*] **regulatory specialist** as defined in ORS 471.001.

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

SECTION 144. ORS 133.726, as amended by section 71, chapter 644, Oregon Laws 2011, section 13, chapter 54, Oregon Laws 2012, and section 15, chapter 180, Oregon Laws 2013, is amended to read:

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

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

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

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

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

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

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

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

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

(b) There is probable cause to believe that the oral communication to be obtained will contain evidence concerning that crime.

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

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

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

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

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

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

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

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

(a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 or 475.906 or as a misdemeanor under ORS 167.007 or 167.008; or

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

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

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

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

(b) To a magistrate;

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

(d) In compliance with a court order.

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

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

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

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

(B) A political subdivision, agency, department or bureau of the governments described in subparagraph (A) of this paragraph; or

- (C) A police department established by a university under ORS 352.383 or 353.125; or
- (b) A [*liquor enforcement inspector*] **regulatory specialist** as defined in ORS 471.001.

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

SECTION 145. ORS 153.005 is amended to read:

153.005. As used in this chapter:

(1) "Enforcement officer" means:

- (a) A member of the Oregon State Police.
- (b) A sheriff or deputy sheriff.
- (c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.
- (d) A police officer commissioned by a university under ORS 352.383 or 353.125.
- (e) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state.

(f) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon.

(g) A Port of Portland peace officer.

(h) A humane special agent as defined in ORS 181.435.

(i) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

(j) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.

(k) Any other person specifically authorized by law to issue citations for the commission of violations.

(2) "Traffic offense" has the meaning given that term in ORS 801.555.

(3) "Violation" means an offense described in ORS 153.008.

(4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that charges a person with commission of a violation.

SECTION 146. ORS 153.005, as amended by section 45, chapter 644, Oregon Laws 2011, section 15, chapter 54, Oregon Laws 2012, section 8, chapter 67, Oregon Laws 2012, and section 22, chapter 180, Oregon Laws 2013, is amended to read:

153.005. As used in this chapter:

(1) "Enforcement officer" means:

- (a) A member of the Oregon State Police.
- (b) A sheriff or deputy sheriff.
- (c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.
- (d) A police officer commissioned by a university under ORS 352.383 or 353.125.
- (e) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state.

(f) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon.

(g) A Port of Portland peace officer.

(h) A humane special agent as defined in ORS 181.435.

(i) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

(j) Any other person specifically authorized by law to issue citations for the commission of violations.

(2) "Traffic offense" has the meaning given that term in ORS 801.555.

(3) "Violation" means an offense described in ORS 153.008.

(4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that charges a person with commission of a violation.

SECTION 147. ORS 161.015 is amended to read:

161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) “Dangerous weapon” means any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

(2) “Deadly weapon” means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

(3) “Deadly physical force” means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

(4) “Peace officer” means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS 133.005, or a police officer commissioned by a university under ORS 352.383 or 353.125;

(c) An investigator of the Criminal Justice Division of the Department of Justice or investigator of a district attorney’s office;

(d) A humane special agent as defined in ORS 181.435;

(e) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2);

(f) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011; and

(g) Any other person designated by law as a peace officer.

(5) “Person” means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(6) “Physical force” includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.

(7) “Physical injury” means impairment of physical condition or substantial pain.

(8) “Serious physical injury” means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

(9) “Possess” means to have physical possession or otherwise to exercise dominion or control over property.

(10) “Public place” means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

SECTION 148. ORS 161.015, as amended by section 46, chapter 644, Oregon Laws 2011, section 17, chapter 54, Oregon Laws 2012, section 10, chapter 67, Oregon Laws 2012, and section 24, chapter 180, Oregon Laws 2013, is amended to read:

161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) “Dangerous weapon” means any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

(2) “Deadly weapon” means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

(3) “Deadly physical force” means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

(4) “Peace officer” means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS 133.005, or a police officer commissioned by a university under ORS 352.383 or 353.125;

(c) An investigator of the Criminal Justice Division of the Department of Justice or investigator of a district attorney’s office;

- (d) A humane special agent as defined in ORS 181.435;
- (e) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2); and
- (f) Any other person designated by law as a peace officer.
- (5) "Person" means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.
- (6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.
- (7) "Physical injury" means impairment of physical condition or substantial pain.
- (8) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.
- (9) "Possess" means to have physical possession or otherwise to exercise dominion or control over property.
- (10) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

SECTION 149. ORS 163.095 is amended to read:

163.095. As used in ORS 163.105 and this section, "aggravated murder" means murder as defined in ORS 163.115 which is committed under, or accompanied by, any of the following circumstances:

- (1)(a) The defendant committed the murder pursuant to an agreement that the defendant receive money or other thing of value for committing the murder.
- (b) The defendant solicited another to commit the murder and paid or agreed to pay the person money or other thing of value for committing the murder.
- (c) The defendant committed murder after having been convicted previously in any jurisdiction of any homicide, the elements of which constitute the crime of murder as defined in ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.
- (d) There was more than one murder victim in the same criminal episode as defined in ORS 131.505.
- (e) The homicide occurred in the course of or as a result of intentional maiming or torture of the victim.
- (f) The victim of the intentional homicide was a person under the age of 14 years.
- (2)(a) The victim was one of the following and the murder was related to the performance of the victim's official duties in the justice system:
 - (A) A police officer as defined in ORS 181.610;
 - (B) A correctional, parole and probation officer or other person charged with the duty of custody, control or supervision of convicted persons;
 - (C) A member of the Oregon State Police;
 - (D) A judicial officer as defined in ORS 1.210;
 - (E) A juror or witness in a criminal proceeding;
 - (F) An employee or officer of a court of justice;
 - (G) A member of the State Board of Parole and Post-Prison Supervision; or
 - (H) A [*liquor enforcement inspector*] **regulatory specialist**.
- (b) The defendant was confined in a state, county or municipal penal or correctional facility or was otherwise in custody when the murder occurred.
- (c) The defendant committed murder by means of an explosive as defined in ORS 164.055.
- (d) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the homicide under the circumstances set forth in ORS 163.115 (1)(b).
- (e) The murder was committed in an effort to conceal the commission of a crime, or to conceal the identity of the perpetrator of a crime.

(f) The murder was committed after the defendant had escaped from a state, county or municipal penal or correctional facility and before the defendant had been returned to the custody of the facility.

SECTION 150. ORS 165.805 is amended to read:

165.805. (1) A person commits the crime of misrepresentation of age by a minor if:

(a) Being less than a certain, specified age, the person knowingly purports to be of any age other than the true age of the person with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or

(b) Being unmarried, the person knowingly represents that the person is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons.

(2) Misrepresentation of age by a minor is a Class C misdemeanor.

(3) In addition to and not in lieu of any other penalty established by law, a person who, using a driver permit or license or other identification issued by the Department of Transportation of this state or its equivalent in another state, commits the crime of misrepresentation of age by a minor in order to purchase or consume alcoholic liquor may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the department under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(4) The prohibitions of this section do not apply to any person acting under the direction of the Oregon Liquor Control Commission or a [*liquor enforcement inspector*] **regulatory specialist** or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under a certain, specified age.

(5) The prohibitions of this section do not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years.

SECTION 151. ORS 166.070 is amended to read:

166.070. (1) A person commits the crime of aggravated harassment if the person, knowing that the other person is a:

(a) Staff member, knowingly propels saliva, blood, urine, semen, feces or other dangerous substance at the staff member while the staff member is acting in the course of official duty or as a result of the staff member's official duties;

(b) Public safety officer, knowingly propels blood, urine, semen or feces at the public safety officer while the public safety officer is acting in the course of official duty or as a result of the public safety officer's official duties; or

(c) Public safety officer, intentionally propels saliva at the public safety officer, and the saliva comes into physical contact with the public safety officer, while the public safety officer is acting in the course of official duty or as a result of the public safety officer's official duties.

(2) Aggravated harassment is a Class C felony. When a person is convicted of violating subsection (1)(a) of this section, in addition to any other sentence it may impose, the court shall impose a term of incarceration in a state correctional facility.

(3) As used in this section:

(a) "Public safety officer" means an emergency medical services provider as defined in ORS 682.025, a [*liquor enforcement inspector*] **regulatory specialist** as defined in ORS 471.001 or a fire service professional, a parole and probation officer or a police officer as those terms are defined in ORS 181.610.

(b) "Staff member" has the meaning given that term in ORS 163.165.

SECTION 152. ORS 181.010, as amended by section 1, chapter 119, Oregon Laws 2014, is amended to read:

181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires otherwise:

- (1) “Criminal justice agency” means:
 - (a) The Governor;
 - (b) Courts of criminal jurisdiction;
 - (c) The Attorney General;
 - (d) District attorneys, city attorneys with criminal prosecutorial functions, attorney employees of the office of public defense services and nonprofit public defender organizations established under contract with the Public Defense Services Commission;
 - (e) Law enforcement agencies;
 - (f) The Department of Corrections;
 - (g) The Oregon Youth Authority;
 - (h) The State Board of Parole and Post-Prison Supervision;
 - (i) The Department of Public Safety Standards and Training;
 - (j) The enforcement division of the Oregon Liquor Control Commission **in performing duties related to investigating and enforcing the criminal laws of this state that the commission is charged to enforce**;
 - (k) Regional information systems that share programs to track, identify and remove cross-jurisdictional criminal and terrorist conspiracies; and
 - (L) Any other state or local agency with law enforcement authority.
- (2) “Criminal offender information” includes records and related data as to physical description and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.
- (3) “Department” means the Department of State Police established under ORS 181.020.
- (4) “Deputy superintendent” means the Deputy Superintendent of State Police appointed under ORS 181.220.
- (5) “Designated agency” means any state, county or municipal government agency where Oregon criminal offender information is required to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, licensing purposes or other demonstrated and legitimate needs when designated by order of the Governor.
- (6) “Disposition report” means a form or process prescribed or furnished by the department, containing a description of the ultimate action taken subsequent to an arrest.
- (7) “Law enforcement agency” means:
 - (a) County sheriffs, municipal police departments, police departments established by a university under ORS 352.383 or 353.125 and State Police;
 - (b) Other police officers of this state or another state, including humane special agents as defined in ORS 181.435;
 - (c) A tribal government as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011; and
 - (d) Law enforcement agencies of the federal government.
- (8) “State police” means the sworn members of the state police force appointed under ORS 181.250.
- (9) “Superintendent” means the Superintendent of State Police appointed under ORS 181.200.

SECTION 153. ORS 181.010, as amended by section 49, chapter 644, Oregon Laws 2011, section 19, chapter 54, Oregon Laws 2012, section 12, chapter 67, Oregon Laws 2012, section 30, chapter 180, Oregon Laws 2013, and section 2, chapter 119, Oregon Laws 2014, is amended to read:

181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires otherwise:

- (1) "Criminal justice agency" means:
- (a) The Governor;
 - (b) Courts of criminal jurisdiction;
 - (c) The Attorney General;
 - (d) District attorneys, city attorneys with criminal prosecutorial functions, attorney employees of the office of public defense services and nonprofit public defender organizations established under contract with the Public Defense Services Commission;
 - (e) Law enforcement agencies;
 - (f) The Department of Corrections;
 - (g) The Oregon Youth Authority;
 - (h) The State Board of Parole and Post-Prison Supervision;
 - (i) The Department of Public Safety Standards and Training;
 - (j) The enforcement division of the Oregon Liquor Control Commission **in performing duties related to investigating and enforcing the criminal laws of this state that the commission is charged to enforce**;
 - (k) Regional information systems that share programs to track, identify and remove cross-jurisdictional criminal and terrorist conspiracies; and
 - (L) Any other state or local agency with law enforcement authority.
- (2) "Criminal offender information" includes records and related data as to physical description and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.
- (3) "Department" means the Department of State Police established under ORS 181.020.
- (4) "Deputy superintendent" means the Deputy Superintendent of State Police appointed under ORS 181.220.
- (5) "Designated agency" means any state, county or municipal government agency where Oregon criminal offender information is required to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, licensing purposes or other demonstrated and legitimate needs when designated by order of the Governor.
- (6) "Disposition report" means a form or process prescribed or furnished by the department, containing a description of the ultimate action taken subsequent to an arrest.
- (7) "Law enforcement agency" means:
- (a) County sheriffs, municipal police departments, police departments established by a university under ORS 352.383 or 353.125 and State Police;
 - (b) Other police officers of this state or another state, including humane special agents as defined in ORS 181.435; and
 - (c) Law enforcement agencies of the federal government.
- (8) "State police" means the sworn members of the state police force appointed under ORS 181.250.
- (9) "Superintendent" means the Superintendent of State Police appointed under ORS 181.200.
- SECTION 154.** ORS 181.610 is amended to read:
- 181.610. As used in ORS 181.610 to 181.712, unless the context requires otherwise:
- (1) "Abuse" has the meaning given that term in ORS 107.705.
 - (2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.
 - (3) "Certified reserve officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.
 - (4) "Commissioned" means being authorized to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) "Corrections officer" means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers described in paragraph (a) of this subsection.

(6) "Department" means the Department of Public Safety Standards and Training.

(7) "Director" means the Director of the Department of Public Safety Standards and Training.

(8) "Domestic violence" means abuse between family or household members.

(9) "Emergency medical dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) "Family or household members" has the meaning given that term in ORS 107.705.

(11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not mean forest fire protection agency personnel.

(12) "Law enforcement unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation;

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to *[liquor enforcement inspectors]* **regulatory specialists**; or

(e) A humane investigation agency as defined in ORS 181.433.

[(13) "Liquor enforcement inspector" has the meaning given that term in ORS 471.001.]

[(14)] **(13)** "Parole and probation officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

- (b) An officer who:
 - (A) Is certified and has been employed as a full-time parole and probation officer for more than one year;
 - (B) Is employed part-time by the Department of Corrections, a county or a court; and
 - (C) Is charged with and performs the duty of:
 - (i) Community protection by controlling, investigating, supervising and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or
 - (ii) Investigating adult offenders on parole or probation or being considered for parole or probation.
- [(15)] **(14)** “Police officer” means:
 - (a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:
 - (A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police; and
 - (B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;
 - (b) An investigator of a district attorney’s office if the investigator is or has been certified as a peace officer in this or another state;
 - (c) A humane special agent commissioned under ORS 181.433;
 - (d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647; or
 - (e) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.
- [(16)] **(15)** “Public or private safety agency” means a unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, fire fighting, police, ambulance or emergency medical services.
- [(17)] **(16)** “Public safety personnel” and “public safety officer” include corrections officers, youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators, [*liquor enforcement inspectors*] **regulatory specialists** and fire service professionals.
- (17) “Regulatory specialist” has the meaning given that term in ORS 471.001.**
- (18) “Reserve officer” means an officer or member of a law enforcement unit who is:
 - (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police;
 - (b) Armed with a firearm; and
 - (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.
- (19) “Telecommunicator” means a person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105.
- (20) “Youth correction officer” means an employee of the Oregon Youth Authority who is charged with and primarily performs the duty of custody, control or supervision of youth offenders confined in a youth correction facility.

SECTION 155. ORS 181.610, as amended by section 50, chapter 644, Oregon Laws 2011, section 23, chapter 54, Oregon Laws 2012, section 14, chapter 67, Oregon Laws 2012, section 5, chapter 88,

Oregon Laws 2012, section 18, chapter 1, Oregon Laws 2013, section 7, chapter 154, Oregon Laws 2013, and section 32, chapter 180, Oregon Laws 2013, is amended to read:

181.610. As used in ORS 181.610 to 181.712, unless the context requires otherwise:

(1) "Abuse" has the meaning given that term in ORS 107.705.

(2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.

(3) "Certified reserve officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(4) "Commissioned" means being authorized to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) "Corrections officer" means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers described in paragraph (a) of this subsection.

(6) "Department" means the Department of Public Safety Standards and Training.

(7) "Director" means the Director of the Department of Public Safety Standards and Training.

(8) "Domestic violence" means abuse between family or household members.

(9) "Emergency medical dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) "Family or household members" has the meaning given that term in ORS 107.705.

(11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not mean forest fire protection agency personnel.

(12) "Law enforcement unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation;

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to [*liquor enforcement inspectors*] **regulatory specialists**; or

(e) A humane investigation agency as defined in ORS 181.433.

[(13)] *“Liquor enforcement inspector” has the meaning given that term in ORS 471.001.*

[(14)] **(13)** “Parole and probation officer” means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) An officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation.

[(15)] **(14)** “Police officer” means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney’s office if the investigator is or has been certified as a peace officer in this or another state;

(c) A humane special agent commissioned under ORS 181.433; or

(d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647.

[(16)] **(15)** “Public or private safety agency” means a unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, fire fighting, police, ambulance or emergency medical services.

[(17)] **(16)** “Public safety personnel” and “public safety officer” include corrections officers, youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators, [*liquor enforcement inspectors*] **regulatory specialists** and fire service professionals.

(17) “Regulatory specialist” has the meaning given that term in ORS 471.001.

(18) “Reserve officer” means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(19) "Telecommunicator" means a person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105.

(20) "Youth correction officer" means an employee of the Oregon Youth Authority who is charged with and primarily performs the duty of custody, control or supervision of youth offenders confined in a youth correction facility.

SECTION 156. ORS 181.645 is amended to read:

181.645. A law enforcement unit in this state may not employ as a police officer, corrections officer, parole and probation officer or [*liquor enforcement inspector*] **regulatory specialist**, or utilize as a certified reserve officer, any person who has not yet attained the age of 21 years.

SECTION 157. ORS 181.646 is amended to read:

181.646. (1) Except for a person who has requested and obtained an extension from the Department of Public Safety Standards and Training under subsection (2) of this section, subject to subsection (3) of this section the Oregon Liquor Control Commission may not employ a person as a [*liquor enforcement inspector*] **regulatory specialist** for more than 18 months unless the person is a citizen of the United States who has been certified under ORS 181.640 as being qualified as a [*liquor enforcement inspector*] **regulatory specialist** and the certification has not:

(a) Lapsed; or

(b) Been revoked under ORS 181.661, 181.662 and 181.664 (1) and not reissued under ORS 181.661 (2).

(2) The department, upon the facts contained in an affidavit accompanying the request for extension, may find good cause for failure to obtain certification within the time period described in subsection (1) of this section. If the department finds that there is good cause for the failure, the department may extend for up to one year the period that a person may serve as a [*liquor enforcement inspector*] **regulatory specialist** without certification. The grant or denial of an extension is within the sole discretion of the department.

(3) The citizenship requirement in subsection (1) of this section does not apply to a person employed as a [*liquor enforcement inspector*] **regulatory specialist** on March 16, 2012, who continues to serve as a [*liquor enforcement inspector*] **regulatory specialist** without a lapse under subsection (4) of this section.

(4) The certification of a [*liquor enforcement inspector*] **regulatory specialist** shall lapse after three or more consecutive months of not being employed as a [*liquor enforcement inspector*] **regulatory specialist** unless the [*liquor enforcement inspector*] **regulatory specialist** is on leave from the commission. Upon reemployment as a [*liquor enforcement inspector*] **regulatory specialist**, the person whose certification has lapsed may apply to be certified under ORS 181.610 to 181.712.

(5) The commission shall pay the costs of training required for a [*liquor enforcement inspector*] **regulatory specialist** to be certified by the department.

SECTION 158. Section 32, chapter 54, Oregon Laws 2012, is amended to read:

Sec. 32. (1) The Department of Public Safety Standards and Training shall make public safety personnel certification under ORS 181.640 as [*liquor enforcement inspectors*] **regulatory specialists** available for qualified applicants no later than July 1, 2015.

(2) Notwithstanding [*section 21 of this 2012 Act*] **ORS 181.646** and the amendments to ORS 181.610 by sections 22 and 23, **chapter 54, Oregon Laws 2012** [*of this 2012 Act*], an inspector or investigator employed by the Oregon Liquor Control Commission and not granted an extension under [*section 21 of this 2012 Act*] **ORS 181.646** to obtain certification may perform the duties of a [*liquor enforcement inspector*] **regulatory specialist** without certification under ORS 181.640 until January 1, 2017.

(3) An employee of the Oregon Liquor Control Commission who takes voluntary training for commission inspectors and investigators provided by the Department of Public Safety Standards and Training prior to the date that [*liquor enforcement inspector*] **regulatory specialist** training is available from the department is deemed to have met the minimum basic training requirements for

a [*liquor enforcement inspector*] **regulatory specialist** and is exempt from any minimum physical standards for [*liquor enforcement inspectors*] **regulatory specialists** developed under [*section 21 of this 2012 Act*] **ORS 181.646**.

SECTION 159. ORS 238.005, as amended by section 2, chapter 107, Oregon Laws 2014, is amended to read:

238.005. For purposes of this chapter:

(1) "Active member" means a member who is presently employed by a participating public employer in a qualifying position and who has completed the six-month period of service required by ORS 238.015.

(2) "Annuity" means payments for life derived from contributions made by a member as provided in this chapter.

(3) "Board" means the Public Employees Retirement Board.

(4) "Calendar year" means 12 calendar months commencing on January 1 and ending on December 31 following.

(5) "Continuous service" means service not interrupted for more than five years, except that such continuous service shall be computed without regard to interruptions in the case of:

(a) An employee who had returned to the service of the employer as of January 1, 1945, and who remained in that employment until having established membership in the Public Employees Retirement System.

(b) An employee who was in the armed services on January 1, 1945, and returned to the service of the employer within one year of the date of being otherwise than dishonorably discharged and remained in that employment until having established membership in the Public Employees Retirement System.

(6) "Creditable service" means any period of time during which an active member is being paid a salary by a participating public employer and for which benefits under this chapter are funded by employer contributions and earnings on the fund. For purposes of computing years of "creditable service," full months and major fractions of a month shall be considered to be one-twelfth of a year and shall be added to all full years. "Creditable service" includes all retirement credit received by a member.

(7) "Earliest service retirement age" means the age attained by a member when the member could first make application for retirement under the provisions of ORS 238.280.

(8) "Employee" includes, in addition to employees, public officers, but does not include:

(a) Persons engaged as independent contractors.

(b) Seasonal, emergency or casual workers whose periods of employment with any public employer or public employers do not total 600 hours in any calendar year.

(c) Persons provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons.

(d) Persons employed and paid from federal funds received under a federal program intended primarily to alleviate unemployment. However, any such person shall be considered an "employee" if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects to have the person so considered by an irrevocable written notice to the board.

(e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such employees, are included in a retirement plan under federal railroad retirement statutes. This paragraph shall be deemed to have been in effect since the inception of the system.

(9) "Final average salary" means whichever of the following is greater:

(a) The average salary per calendar year paid by one or more participating public employers to an employee who is an active member of the system in three of the calendar years of membership before the effective date of retirement of the employee, in which three years the employee was paid the highest salary. The three calendar years in which the employee was paid the largest total salary may include calendar years in which the employee was employed for less than a full calendar year. If the number of calendar years of active membership before the effective date of retirement of the employee is three or fewer, the final average salary for the employee is the average salary per

calendar year paid by one or more participating public employers to the employee in all of those years, without regard to whether the employee was employed for the full calendar year.

(b) One-third of the total salary paid by a participating public employer to an employee who is an active member of the system in the last 36 calendar months of active membership before the effective date of retirement of the employee.

(10) "Firefighter" does not include a volunteer firefighter, but does include:

(a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and

(b) An employee of the State Forestry Department who is certified by the State Forester as a professional wildland firefighter and whose primary duties include the abatement of uncontrolled fires as described in ORS 477.064.

(11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 following.

(12) "Fund" means the Public Employees Retirement Fund.

(13) "Inactive member" means a member who is not employed in a qualifying position, whose membership has not been terminated in the manner described by ORS 238.095 and who is not retired for service or disability.

(14) "Institution of higher education" means a public university listed in ORS 352.002, the Oregon Health and Science University and a community college, as defined in ORS 341.005.

(15) "Member" means a person who has established membership in the system and whose membership has not been terminated as described in ORS 238.095. "Member" includes active, inactive and retired members.

(16) "Member account" means the regular account and the variable account.

(17) "Normal retirement age" means:

(a) For a person who establishes membership in the system before January 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

(b) For a person who establishes membership in the system on or after January 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter or 60 years of age if the employee retires at that age as other than a police officer or firefighter.

(18) "Pension" means annual payments for life derived from contributions by one or more public employers.

(19) "Police officer" includes:

(a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions whose duties, as assigned by the Director of the Department of Corrections, include the custody of persons committed to the custody of or transferred to the Department of Corrections and employees of the Department of Corrections who were classified as police officers on or before July 27, 1989, whether or not such classification was authorized by law.

(b) Employees of the Department of State Police who are classified as police officers by the Superintendent of State Police.

(c) Employees of the Oregon Liquor Control Commission who are classified as [*liquor enforcement inspectors*] **regulatory specialists** by the administrator of the commission.

(d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified by the sheriff, are the regular duties of police officers or corrections officers.

(e) Police chiefs and police personnel of a city who are classified as police officers by the council or other governing body of the city.

(f) Police officers who are commissioned by a university under ORS 352.383 or 353.125 and who are classified as police officers by the university.

(g) Parole and probation officers employed by the Department of Corrections, parole and probation officers who are transferred to county employment under ORS 423.549 and adult parole and probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes of this chapter by the county governing body. If a county classifies adult parole and probation offi-

cers as police officers for the purposes of this chapter, and the employees so classified are represented by a labor organization, any proposal by the county to change that classification or to cease to classify adult parole and probation officers as police officers for the purposes of this chapter is a mandatory subject of bargaining.

(h) Police officers appointed under ORS 276.021 or 276.023.

(i) Employees of the Port of Portland who are classified as airport police by the Board of Commissioners of the Port of Portland.

(j) Employees of the State Department of Agriculture who are classified as livestock police officers by the Director of Agriculture.

(k) Employees of the Department of Public Safety Standards and Training who are classified by the department as other than secretarial or clerical personnel.

(L) Investigators of the Criminal Justice Division of the Department of Justice.

(m) Corrections officers as defined in ORS 181.610.

(n) Employees of the Oregon State Lottery Commission who are classified by the Director of the Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

(o) The Director of the Department of Corrections.

(p) An employee who for seven consecutive years has been classified as a police officer as defined by this section, and who is employed or transferred by the Department of Corrections to fill a position designated by the Director of the Department of Corrections as being eligible for police officer status.

(q) An employee of the Department of Corrections classified as a police officer on or prior to July 27, 1989, whether or not that classification was authorized by law, as long as the employee remains in the position held on July 27, 1989. The initial classification of an employee under a system implemented pursuant to ORS 240.190 does not affect police officer status.

(r) Employees of a school district who are appointed and duly sworn members of a law enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as police officers commissioned by the district.

(s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who have supervisory, control or teaching responsibilities over juveniles committed to the custody of the Department of Corrections or the Oregon Youth Authority.

(t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job description involves the custody, control, treatment, investigation or supervision of juveniles placed in such facilities.

(u) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation officers.

(20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2) to (6) (1999 Edition).

(21) "Public employer" means the state, one of its agencies, any city, county, or municipal or public corporation, any political subdivision of the state or any instrumentality thereof, or an agency created by one or more such governmental organizations to provide governmental services. For purposes of this chapter, such agency created by one or more governmental organizations is a governmental instrumentality and a legal entity with power to enter into contracts, hold property and sue and be sued.

(22) "Qualifying position" means one or more jobs with one or more participating public employers in which an employee performs 600 or more hours of service in a calendar year, excluding any service in a job for which a participating public employer does not provide benefits under this chapter pursuant to an application made under ORS 238.035.

(23) "Regular account" means the account established for each active and inactive member under ORS 238.250.

(24) "Retired member" means a member who is retired for service or disability.

(25) "Retirement credit" means a period of time that is treated as creditable service for the purposes of this chapter.

(26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public employer in return for services to the employer, plus the monetary value, as determined by the Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and other advantages the employer furnishes the employee in return for services.

(b) "Salary" includes but is not limited to:

(A) Payments of employee and employer money into a deferred compensation plan, which are deemed salary paid in each month of deferral;

(B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary paid in each month of participation;

(C) Retroactive payments described in ORS 238.008; and

(D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190.

(c) "Salary" or "other advantages" does not include:

(A) Travel or any other expenses incidental to employer's business which is reimbursed by the employer;

(B) Payments for insurance coverage by an employer on behalf of employee or employee and dependents, for which the employee has no cash option;

(C) Payments made on account of an employee's death;

(D) Any lump sum payment for accumulated unused sick leave;

(E) Any accelerated payment of an employment contract for a future period or an advance against future wages;

(F) Any retirement incentive, retirement severance pay, retirement bonus or retirement gratuitous payment;

(G) Payments for periods of leave of absence after the date the employer and employee have agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for sick leave and vacation;

(H) Payments for instructional services rendered to public universities listed in ORS 352.002 or the Oregon Health and Science University when such services are in excess of full-time employment subject to this chapter. A person employed under a contract for less than 12 months is subject to this subparagraph only for the months to which the contract pertains; or

(I) Payments made by an employer for insurance coverage provided to a domestic partner of an employee.

(27) "School year" means the period beginning July 1 and ending June 30 next following.

(28) "System" means the Public Employees Retirement System.

(29) "Variable account" means the account established for a member who participates in the Variable Annuity Account under ORS 238.260.

(30) "Vested" means being an active member of the system in each of five calendar years.

(31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600 hours of service per year.

SECTION 160. ORS 471.001 is amended to read:

471.001. As used in this chapter and ORS chapter 473:

(1) "Alcoholic beverage" and "alcoholic liquor" mean any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.

(2) "Commercial establishment" means a place of business:

(a) Where food is cooked and served;

(b) That has kitchen facilities adequate for the preparation and serving of meals;

(c) That has dining facilities adequate for the serving and consumption of meals; and

(d) That:

(A) If not a for-profit private club, serves meals to the general public; or

(B) If a for-profit private club, serves meals to the club's members and guests and complies with any minimum membership and food service requirements established by Oregon Liquor Control Commission rules.

(3) "Commission" means the Oregon Liquor Control Commission.

(4) "Distilled liquor" means any alcoholic beverage other than a wine, cider or malt beverage. "Distilled liquor" includes distilled spirits.

(5) "Licensee" means any person holding a license issued under this chapter.

[(6) "*Liquor enforcement inspector*" means a full-time employee of the commission who is authorized to act as an agent of the commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing this chapter, ORS 474.005 to 474.095 and 474.115, commission rules and any other statutes the commission considers related to alcoholic liquor.]

[(7)(a)] **(6)(a)** "Malt beverage" means an alcoholic beverage obtained by the fermentation of grain that contains not more than 14 percent alcohol by volume.

(b) "Malt beverage" includes:

(A) Beer, ale, porter, stout and similar alcoholic beverages containing not more than 14 percent alcohol by volume;

(B) Malt beverages containing six percent or less alcohol by volume and that contain at least 51 percent alcohol by volume obtained by the fermentation of grain, as long as not more than 49 percent of the beverage's overall alcohol content is obtained from flavors and other added nonbeverage ingredients containing alcohol; and

(C) Malt beverages containing more than six percent alcohol by volume that derive not more than 1.5 percent of the beverage's overall alcohol content by volume from flavors and other added nonbeverage ingredients containing alcohol.

(c) "Malt beverage" does not include cider or an alcoholic beverage obtained primarily by fermentation of rice, such as sake.

[(8)] **(7)** "Manufacturer" means every person who produces, brews, ferments, manufactures or blends an alcoholic beverage within this state or who imports or causes to be imported into this state an alcoholic beverage for sale or distribution within the state.

[(9)] **(8)** "Permittee" means a person holding a permit issued under ORS 471.360 to 471.390.

[(10)] **(9)** "Premises" or "licensed premises" means a location licensed under this chapter and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. "Premises" or "licensed premises" includes areas outside of a building that the commission has specifically designated as approved for alcoholic beverage service or consumption.

(10) "Regulatory specialist" means a full-time employee of the commission who is authorized to act as an agent of the commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing this chapter, ORS 474.005 to 474.095 and 474.115, commission rules and any other statutes the commission considers related to regulating liquor or marijuana.

(11) "Wine" means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. "Wine" includes fortified wine. "Wine" does not include cider.

SECTION 161. ORS 471.360 is amended to read:

471.360. (1) Except as otherwise provided in ORS 471.375:

(a) Any person employed by a licensee of the Oregon Liquor Control Commission must have a valid service permit issued by the commission if the person:

(A) Participates in any manner in the mixing, selling or service of alcoholic liquor for consumption on the premises where served or sold; or

(B) Participates in the dispensing of malt beverages, wines or cider sold in securely covered containers provided by the consumer.

(b) A licensee of the commission may not permit any person who lacks a service permit required of the person under paragraph (a) of this subsection:

(A) To mix, sell or serve any alcoholic liquor for consumption on licensed premises; or

(B) To dispense malt beverages, wines or cider sold in securely covered containers provided by the consumer.

(c) A permittee shall make the service permit available at any time while on duty for immediate inspection by any [*liquor enforcement inspector*] **regulatory specialist** or by any other peace officer.

(2) The commission may waive the requirement for a service permit for an employee of a licensee whose primary function is not the sale of alcoholic liquor or food, including but not limited to public passenger carriers, hospitals, or convalescent, nursing or retirement homes.

SECTION 162. ORS 471.375 is amended to read:

471.375. (1) Any person who has not had a permit refused or revoked or whose permit is not under suspension may mix, sell or serve alcoholic beverages as provided under subsection (4) of this section if the person prepares in duplicate an application for a service permit prior to mixing, selling or serving any alcoholic beverage for consumption on licensed premises and the application is indorsed as required under subsection (2) of this section. A copy of the indorsed application must be kept on the licensed premises by any licensee for whom the person mixes, sells or serves alcoholic beverages and must be made available for immediate inspection by any [*liquor enforcement inspector*] **regulatory specialist** or by any other peace officer until the applicant receives the service permit.

(2) An application for a service permit under subsection (1) of this section must be indorsed by one of the following persons:

(a) The licensee under whose license the applicant will mix, sell or serve alcoholic beverages. If a licensee indorses an application, the licensee must immediately transmit the application to the commission with the fee required by subsection (3) of this section.

(b) An officer or employee of a company that provides servers to licensees on a temporary basis. The commission must give a company written approval to indorse service permit applications before an application may be indorsed under this paragraph.

(c) An employee of the commission designated by the commission to accept and indorse applications under this section. The applicant must personally appear before the employee of the commission and provide identification as may be required by commission rule.

(d) An employee of an alcohol server education course provider that has been certified by the commission under ORS 471.542 (8). The employee must be specifically designated by the provider to indorse applications under this section.

(3) An applicant for a service permit must be 18 years of age or over. Application for a service permit shall be made on a form supplied by the commission. The applicant shall truly answer all questions, provide any further information required, and pay a fee not to exceed \$10. The commission shall either set the fee to cover only the administrative costs of the service permit program, or apply any excess to the Alcohol Education Program established under ORS 471.541.

(4) An applicant for a service permit whose application has been indorsed as provided under this section may:

(a) Participate in the mixing, selling or service of alcoholic beverages for consumption on the premises where served or sold; and

(b) Participate in the dispensing of malt beverages, wine or cider sold in securely covered containers provided by the consumer.

SECTION 163. ORS 471.675 is amended to read:

471.675. A person may not forcibly resist lawful arrest, or by physical contact recklessly interfere with an investigation of any infringement of the Liquor Control Act or with any lawful search or seizure being made by a peace officer or a [*liquor enforcement inspector*] **regulatory specialist**

if the person knows or should know that the investigation, search or seizure is being performed by a peace officer or [*liquor enforcement inspector*] **regulatory specialist**.

SECTION 164. ORS 471.775 is amended to read:

471.775. (1) The provisions of ORS 183.440 shall apply to subpoenas issued by each member of the Oregon Liquor Control Commission or any of its authorized agents.

(2) [*Liquor enforcement inspectors*] **Regulatory specialists** have authority as provided under this chapter, ORS chapter 153, ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.235, 161.239 and 161.245 and chapter 743, Oregon Laws 1971, to conduct inspections or investigations, make arrests and seizures, aid in prosecutions for offenses, issue criminal citations and citations for violations and otherwise enforce this chapter, ORS 474.005 to 474.095 and 474.115, commission rules and any other laws of this state that the commission considers related to alcoholic liquor, including but not limited to laws regarding the manufacture, importation, transportation, possession, distribution, sale or consumption of alcoholic beverages, the manufacture or use of false identification or the entry of premises licensed to sell alcoholic liquor.

SECTION 165. ORS 659A.320 is amended to read:

659A.320. (1) Except as provided in subsection (2) of this section, it is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.

(2) Subsection (1) of this section does not apply to:

(a) Employers that are federally insured banks or credit unions;

(b) Employers that are required by state or federal law to use individual credit history for employment purposes;

(c) The application for employment or the employment of a public safety officer who will be or who is:

(A) A member of a law enforcement unit;

(B) Employed as a peace officer commissioned by a city, port, school district, mass transit district, county, university under ORS 352.383 or 353.125, Indian reservation, the Superintendent of State Police under ORS 181.433, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or employed as a [*liquor enforcement inspector*] **regulatory specialist** by the Oregon Liquor Control Commission; and

(C) Responsible for enforcing the criminal laws of this state or laws or ordinances related to airport security; or

(d) The obtainment or use by an employer of information in the credit history of an applicant or employee because the information is substantially job-related and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.

(3) An employee or an applicant for employment may file a complaint under ORS 659A.820 for violations of this section and may bring a civil action under ORS 659A.885 and recover the relief as provided by ORS 659A.885 (1) and (2).

(4) As used in this section, "credit history" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing or credit capacity.

SECTION 166. ORS 659A.885 is amended to read:

659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in subsection (2) of this section may file a civil action in circuit court. In any action under this subsection, the court may order injunctive relief and any other equitable relief that may be appropriate, including but not limited to reinstatement or the hiring of employees with or without back pay. A court may order back pay in an action under this subsection only for the two-year period immediately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-

year period immediately preceding the filing of the action. In any action under this subsection, the court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Except as provided in subsection (3) of this section:

(a) The judge shall determine the facts in an action under this subsection; and

(b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (3).

(2) An action may be brought under subsection (1) of this section alleging a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 476.574, 652.355, 653.060, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320 or 659A.421 **or section 20b of this 2015 Act.**

(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318 or 659A.421:

(a) The court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater, and punitive damages;

(b) At the request of any party, the action shall be tried to a jury;

(c) Upon appeal of any judgment finding a violation, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (1); and

(d) Any attorney fee agreement shall be subject to approval by the court.

(4) In any action under subsection (1) of this section alleging a violation of ORS 652.355 or 653.060, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater.

(5) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574, 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$250, whichever is greater.

(6) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092, the court may award, in addition to the relief authorized under subsection (1) of this section, a civil penalty in the amount of \$720.

(7) Any individual against whom any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action against the operator or manager of the place, the employee or person acting on behalf of the place or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an action under this subsection:

(a) The court may award, in addition to the relief authorized under subsection (1) of this section, compensatory and punitive damages;

(b) The operator or manager of the place of public accommodation, the employee or person acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all damages awarded in the action;

(c) At the request of any party, the action shall be tried to a jury;

(d) The court shall award reasonable attorney fees to a prevailing plaintiff;

(e) The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails only if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court; and

(f) Upon any appeal of a judgment under this subsection, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (1).

(8) When the commissioner or the Attorney General has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the rights protected by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner or the Attorney General may file a civil action on behalf of the aggrieved persons in the same manner as a person or group of persons may file a civil action under this section. In a civil action filed under this subsection, the court may assess against the respondent, in addition to the relief authorized under subsections (1) and (3) of this section, a civil penalty:

- (a) In an amount not exceeding \$50,000 for a first violation; and
- (b) In an amount not exceeding \$100,000 for any subsequent violation.

(9) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to the commissioner if the commissioner prevails in the action. The court may award reasonable attorney fees and expert witness fees incurred by a defendant that prevails in the action if the court determines that the commissioner had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(10) In an action under subsection (1) or (8) of this section alleging a violation of ORS 659A.145 or 659A.421 or discrimination under federal housing law:

(a) "Aggrieved person" includes a person who believes that the person:

(A) Has been injured by an unlawful practice or discriminatory housing practice; or

(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(b) An aggrieved person in regard to issues to be determined in an action may intervene as of right in the action. The Attorney General may intervene in the action if the Attorney General certifies that the case is of general public importance. The court may allow an intervenor prevailing party costs and reasonable attorney fees at trial and on appeal.

SECTION 167. ORS 802.250 is amended to read:

802.250. (1) An eligible public employee may request that any driver or vehicle record kept by the Department of Transportation that contains or is required to contain the eligible employee's residence address contain instead the address of the public agency employing the eligible employee. A request under this section shall:

(a) Be in a form specified by the department that provides for verification of the eligible employee's employment.

(b) Contain verification by the employing public agency of the eligible employee's employment with the public agency.

(2) Upon receipt of a request and verification under subsection (1) of this section, the department shall remove the eligible employee's residence address from its records, if necessary, and substitute therefor the address of the public agency employing the eligible employee. The department shall indicate on the records that the address shown is an employment address. While the request is in effect, the eligible employee may enter the address of the public agency employing the eligible employee on any driver or vehicle form issued by the department that requires an address.

(3) A public agency that verifies an eligible employee's employment under subsection (1) of this section shall notify the department within 30 days if the eligible employee ceases to be employed by the public agency. The eligible employee shall notify the department of a change of address as provided in ORS 803.220 or 807.560.

(4) If an eligible employee is killed in the line of duty, a person who is a household member of the eligible employee may request that any driver or vehicle record kept by the department that contains or is required to contain the household member's residence address continue to contain the address of the public agency that employed the eligible employee for up to four years after the date of the death of the eligible employee. On or before the date on which the four-year period ends, the

household member shall notify the department of a change of address as provided in ORS 803.220 or 807.560. A request under this subsection shall be in a form specified by the department.

(5) As used in this section, "eligible employee" means:

(a) A member of the State Board of Parole and Post-Prison Supervision.

(b) The Director of the Department of Corrections and an employee of an institution defined in ORS 421.005 as Department of Corrections institutions, whose duties, as assigned by the superintendent, include the custody of persons committed to the custody of or transferred to the institution.

(c) A parole and probation officer employed by the Department of Corrections and an employee of the Department of Corrections Release Center whose duties, as assigned by the Chief of the Release Center, include the custody of persons committed to the custody of or transferred to the Release Center.

(d) A police officer appointed under ORS 276.021 or 276.023.

(e) An employee of the State Department of Agriculture who is classified as a brand inspector by the Director of Agriculture.

(f) An investigator of the Criminal Justice Division of the Department of Justice.

(g) A corrections officer as defined in ORS 181.610.

(h) A federal officer. As used in this paragraph, "federal officer" means a special agent or law enforcement officer employed by:

(A) The Federal Bureau of Investigation;

(B) The United States Secret Service;

(C) The United States Citizenship and Immigration Services;

(D) The United States Marshals Service;

(E) The Drug Enforcement Administration;

(F) The United States Postal Service;

(G) The United States Customs and Border Protection;

(H) The United States General Services Administration;

(I) The United States Department of Agriculture;

(J) The Bureau of Alcohol, Tobacco, Firearms and Explosives;

(K) The Internal Revenue Service;

(L) The United States Department of the Interior; or

(M) Any federal agency if the person is empowered to effect an arrest with or without warrant for violations of the United States Code and is authorized to carry firearms in the performance of duty.

(i) An employee of the Department of Human Services or the Oregon Health Authority whose duties include personal contact with clients or patients of the department or the authority.

(j) Any judge of a court of this state.

(k) An employee of the Oregon Youth Authority whose duties include personal contact with persons committed to the legal or physical custody of the authority.

(L) A district attorney, as defined in ORS 131.005, or deputy district attorney.

(m) An employee who provides educational services to persons who are clients or patients of the Department of Human Services or the Oregon Health Authority, who are under the jurisdiction of the Psychiatric Security Review Board or who are under the custody or supervision of the Department of Corrections, the State Board of Parole and Post-Prison Supervision, a community corrections agency, the Oregon Youth Authority or a juvenile department. As used in this paragraph, "employee who provides educational services" means a person who provides instruction, or services related to the instruction, of a subject usually taught in an elementary school, a secondary school or a community college or who provides special education and related services in other than a school setting and who works for:

(A) An education service district or a community college district; or

(B) A state officer, board, commission, bureau, department or division in the executive branch of state government that provides educational services.

- (n) An employee of the Oregon Liquor Control Commission who is:
- (A) A [*liquor enforcement inspector*] **regulatory specialist**; or
- (B) A regulatory manager.
- (o) A police officer as defined in ORS 801.395.
- (p) An employee whose duties include personal contact with criminal offenders and who is employed by a law enforcement unit, as defined in ORS 181.610.

(Operative March 1, 2016)

SECTION 168. ORS 181.534 is amended to read:

181.534. (1) As used in this section:

(a) “Authorized agency” means state government as defined in ORS 174.111 and the Oregon State Bar. “Authorized agency” does not include:

(A) The Oregon State Lottery Commission or the Oregon State Lottery; or

(B) A criminal justice agency, as defined in ORS 181.010, that is authorized by federal law to receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

(b) “Subject individual” means a person from whom an authorized agency may require fingerprints pursuant to statute for the purpose of enabling the authorized agency to request a state or nationwide criminal records check.

(2) An authorized agency may request that the Department of State Police conduct a criminal records check on a subject individual for non-criminal justice purposes. If a nationwide criminal records check of a subject individual is necessary, the authorized agency may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(3) The Department of State Police shall provide the results of a criminal records check conducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

(4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. If the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of State Police shall cease to send the cards to the federal bureau but shall continue to process the information through other available resources.

(5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the department shall destroy the fingerprint cards and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(6) If only a state criminal records check is conducted, the Department of State Police shall destroy the fingerprint cards after the criminal records check is completed and the results of the criminal records check provided to the authorized agency and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(7) An authorized agency may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(8) An authorized agency and the Department of State Police shall permit a subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual’s own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual’s own state and national criminal offender records.

(9) Each authorized agency, in consultation with the Department of State Police, shall adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules shall include but need not be limited to:

(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181.547 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181.547.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

(10) The Department of State Police shall verify that an authorized agency has adopted the rules required by subsection (9) of this section.

(11)(a) Except as otherwise provided in ORS 181.612, 342.143, 342.223, 443.735 and [475.304] **475.300 to 475.346** and paragraph (b) of this subsection, an authorized agency, using the rules adopted by the authorized agency under subsection (9) of this section and the rules adopted by the Oregon Department of Administrative Services under ORS 181.547, shall determine whether a subject individual is fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit, based on the criminal records check obtained pursuant to this section, on any false statements made by the individual regarding the criminal history of the individual and on any refusal to submit or consent to a criminal records check including fingerprint identification. If a subject individual is determined to be unfit, then the individual may not hold the position, provide services, be employed or be granted a license, certification, registration or permit.

(b) An individual prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to a determination of fitness as a subject individual under paragraph (a) of this subsection.

(c)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness determination of an individual under this subsection may request results of a previously made fitness determination from an authorized agency that has already made a fitness determination for the individual. An authorized agency that receives a request under this paragraph shall provide the requested information.

(B) An authorized agency may make a request under this paragraph only for individuals:

(i) Who are applying to hold a position, provide services, be employed or be granted a license, certification, registration or permit;

(ii) Who are in a category of individuals as specified by the Oregon Department of Administrative Services under ORS 181.547; and

(iii) For whom a fitness determination has already been made.

(12) Except as otherwise provided in ORS 181.612, in making the fitness determination under subsection (11) of this section, the authorized agency shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(13) An authorized agency and an employee of an authorized agency acting within the course and scope of employment are immune from any civil liability that might otherwise be incurred or imposed for determining, pursuant to subsection (11) of this section, that a subject individual is fit or not fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit. An authorized agency and an employee of an authorized agency acting within the course and scope of employment who in good faith comply with this section are not liable for employment-related decisions based on determinations made under subsection (11) of this section. An authorized agency or an employee of an authorized agency acting within the course and scope of employment is not liable for defamation or invasion of privacy in connection with the lawful dissemination of information lawfully obtained under this section.

(14)(a) Each authorized agency shall establish by rule a contested case process by which a subject individual may appeal the determination that the individual is fit or not fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit on the basis of information obtained as the result of a criminal records check conducted pursuant to this section. Challenges to the accuracy or completeness of information provided by the Department of State Police, the Federal Bureau of Investigation and agencies reporting information to the Department of State Police or Federal Bureau of Investigation must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process required by this paragraph.

(b) A subject individual who is employed by an authorized agency and who is determined not to be fit for a position on the basis of information obtained as the result of a criminal records check conducted pursuant to this section may appeal the determination through the contested case process adopted under this subsection or applicable personnel rules, policies and collective bargaining provisions. An individual's decision to appeal a determination through personnel rules, policies and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process.

(c) An individual prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to appeal a determination under paragraph (a) or (b) of this subsection.

(15) Criminal offender information is confidential. Authorized agencies and the Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

(16) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny any applicable position, authority to provide services, license, certification, registration or permit.

(17) If an authorized agency requires a criminal records check of employees, prospective employees, contractors, vendors or volunteers or applicants for a license, certification, registration or permit, the application forms of the authorized agency must contain a notice that the person is subject to fingerprinting and a criminal records check.

SECTION 169. ORS 181.537 is amended to read:

181.537. (1) As used in this section:

(a) "Care" means the provision of care, treatment, education, training, instruction, supervision, placement services, recreation or support to children, the elderly or persons with disabilities.

(b) "Native American tribe" has the meaning given that term in ORS 181.538 (4).

(c) "Qualified entity" means a community mental health program, a community developmental disabilities program, a local health department, the government of a Native American tribe or an agency of a Native American tribe responsible for child welfare or an individual or business or organization, whether public, private, for-profit, nonprofit or voluntary, that provides care, including a business or organization that licenses, certifies or registers others to provide care.

(2) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Human Services, the Oregon Health Authority and the Employment Department may require the fingerprints of a person:

(a) Who is employed by or is applying for employment with either department or the authority;
(b) Who provides or seeks to provide services to either department or the authority as a contractor, subcontractor, vendor or volunteer who:

(A) May have contact with recipients of care;

(B) Has access to personal information about employees of either department or the authority, recipients of care from either department or the authority or members of the public, including Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information or criminal background information;

(C) Has access to information the disclosure of which is prohibited by state or federal laws, rules or regulations, or information that is defined as confidential under state or federal laws, rules or regulations;

(D) Has access to property held in trust or to private property in the temporary custody of the state;

(E) Has payroll or fiscal functions or responsibility for:

(i) Receiving, receipting or depositing money or negotiable instruments;

(ii) Billing, collections, setting up financial accounts or other financial transactions; or

(iii) Purchasing or selling property;

(F) Provides security, design or construction services for government buildings, grounds or facilities;

(G) Has access to critical infrastructure or secure facilities information; or

(H) Is providing information technology services and has control over or access to information technology systems;

(c) For the purposes of licensing, certifying, registering or otherwise regulating or administering programs, persons or qualified entities that provide care;

(d) For the purposes of employment decisions by or for qualified entities that are regulated or otherwise subject to oversight by the Department of Human Services or the Oregon Health Authority and that provide care;

(e) For the purposes of employment decisions made by a mass transit district or transportation district for qualified entities that, under contracts with the district or the Oregon Health Authority, employ persons to operate motor vehicles for the transportation of medical assistance program clients; or

(f) For the purposes of licensure, certification or registration of foster homes by the government of a Native American tribe or an agency of a Native American tribe responsible for child welfare.

(3) The Department of Human Services and the Oregon Health Authority may conduct criminal records checks on a person through the Law Enforcement Data System maintained by the Department of State Police, if deemed necessary by the Department of Human Services or the Oregon Health Authority to protect children, elderly persons, persons with disabilities or other vulnerable persons.

(4) The Department of Human Services and the Oregon Health Authority may furnish to qualified entities, in accordance with the rules of the Department of Human Services or the Oregon Health Authority and the rules of the Department of State Police, information received from the Law Enforcement Data System. However, any criminal offender records and information furnished to the Department of Human Services or the Oregon Health Authority by the Federal Bureau of Investigation through the Department of State Police may not be disseminated to qualified entities.

(5)(a) Except as otherwise provided in ORS 443.735 and [475.304] **475.300 to 475.346**, a qualified entity, using rules adopted by the Department of Human Services or the Oregon Health Authority under ORS 181.534 (9) and rules adopted by the Oregon Department of Administrative Services under ORS 181.547, shall determine under this section whether a person is fit to hold a position, provide services, be employed or, if the qualified entity has authority to make such a determination,

be licensed, certified or registered, based on the criminal records check obtained pursuant to ORS 181.534, any false statements made by the person regarding the criminal history of the person and any refusal to submit or consent to a criminal records check including fingerprint identification. If a person is determined to be unfit, then that person may not hold the position, provide services or be employed, licensed, certified or registered.

(b) A person prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to a determination of fitness under paragraph (a) of this subsection.

(6) In making the fitness determination under subsection (5) of this section, the qualified entity shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the person's present or proposed position, services, employment, license, certification or registration; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification or registration. Intervening circumstances include but are not limited to the passage of time since the commission of the crime, the age of the person at the time of the crime, the likelihood of a repetition of offenses, the subsequent commission of another relevant crime and a recommendation of an employer.

(7) The Department of Human Services, the Oregon Health Authority and the Employment Department may make fitness determinations based on criminal offender records and information furnished by the Federal Bureau of Investigation through the Department of State Police only as described in ORS 181.534.

(8) A qualified entity and an employee of a qualified entity acting within the course and scope of employment are immune from any civil liability that might otherwise be incurred or imposed for determining pursuant to subsection (5) of this section that a person is fit or not fit to hold a position, provide services or be employed, licensed, certified or registered. A qualified entity, employee of a qualified entity acting within the course and scope of employment and an employer or employer's agent who in good faith comply with this section and the decision of the qualified entity or employee of the qualified entity acting within the course and scope of employment are not liable for the failure to hire a prospective employee or the decision to discharge an employee on the basis of the qualified entity's decision. An employee of the state acting within the course and scope of employment is not liable for defamation or invasion of privacy in connection with the lawful dissemination of information lawfully obtained under this section.

(9) The Department of Human Services and the Oregon Health Authority, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181.547, shall develop systems that maintain information regarding criminal records checks in order to minimize the administrative burden imposed by this section and ORS 181.534. Records maintained under this subsection are confidential and may not be disseminated except for the purposes of this section and in accordance with the rules of the Department of Human Services, the Oregon Health Authority and the Department of State Police. Nothing in this subsection permits the Department of Human Services to retain fingerprint cards obtained pursuant to this section.

(10) In addition to the rules required by ORS 181.534, the Department of Human Services and the Oregon Health Authority, in consultation with the Department of State Police, shall adopt rules:

(a) Specifying which qualified entities are subject to this section;

(b) Specifying which qualified entities may request criminal offender information;

(c) Specifying which qualified entities are responsible for deciding, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181.547, whether a subject individual is not fit for a position, service, license, certification, registration or employment; and

(d) Specifying when a qualified entity, in lieu of conducting a completely new criminal records check, may proceed to make a fitness determination under subsection (5) of this section using the

information maintained by the Department of Human Services and the Oregon Health Authority pursuant to subsection (9) of this section.

(11) If a person refuses to consent to the criminal records check or refuses to be fingerprinted, the qualified entity shall deny or terminate the employment of the person, or revoke or deny any applicable position, authority to provide services, employment, license, certification or registration.

(12) If the qualified entity requires a criminal records check of employees or other persons, the application forms of the qualified entity must contain a notice that employment is subject to fingerprinting and a criminal records check.

ANNUAL REPORT EFFECTIVE ON PASSAGE

SECTION 170. (1) As used in this section, “marijuana” and “marijuana item” have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

(2) On or before February 1 of each odd-numbered year, the Oregon Liquor Control Commission shall report to the Legislative Assembly in the manner required by ORS 192.245, the approximate amount of marijuana produced by persons who hold a license under section 19, chapter 1, Oregon Laws 2015, and the approximate amount of marijuana items sold by persons who hold a license under section 22, chapter 1, Oregon Laws 2015, and whether the supply of marijuana in this state is commensurate with the demand for marijuana items in this state.

TEMPORARY PROVISIONS EFFECTIVE ON PASSAGE

SECTION 171. The Oregon Liquor Control Commission shall approve or deny applications submitted to the commission under section 18, chapter 1, Oregon Laws 2015, to produce, process or sell marijuana under sections 19, 20, 21 and 22, chapter 1, Oregon Laws 2015, as soon as practicable after January 4, 2016.

SECTION 172. On or before January 1, 2017, the Oregon Liquor Control Commission:

(1) Shall examine available research, and may conduct or commission new research, to investigate the influence of marijuana on the ability of a person to drive a vehicle and on the concentration of delta-9-tetrahydrocannabinol in a person's blood, in each case taking into account all relevant factors; and

(2) In the manner provided by ORS 192.245, shall present the results of the research, including any recommendations for legislation, to the interim committees of the Legislative Assembly related to judiciary.

SECTION 173. (1) The Oregon Health Authority, in addition to the information required under ORS 475.304 for registering as a marijuana grow site or renewing a marijuana grow site registration, and in addition to information required under ORS 475.314 for registering as a medical marijuana dispensary or renewing a medical marijuana dispensary registration, shall require all applications for registering or renewing registration under ORS 475.304 and 475.314 to contain proof that any person whose name is included in the application has been a resident of this state for:

(a) Except as provided in paragraph (b) of this subsection, two or more years; or

(b) Subject to subsection (2) of this section, and notwithstanding any residency requirements under ORS 475.304 or 475.314, if the person first registered with the authority on or before January 1, 2015, one year.

(2) For purposes of subsection (1)(b) of this section, the authority may not require proof of residency for any person whose name is included in the application for renewing a marijuana grow site registration or renewing a medical marijuana dispensary registration until January 1, 2016.

SECTION 174. If the Oregon Health Authority refuses to reregister a medical marijuana dispensary before the effective date of this 2015 Act on the basis that the medical marijuana dispensary is located within 1,000 feet of a school as described in ORS 475.314 (3)(d), the authority shall reregister the medical marijuana dispensary on or after the effective date of this 2015 Act upon receiving a request, in a form and manner prescribed by the authority, to reregister the medical marijuana dispensary from the person who was previously registered as the person responsible for the medical marijuana dispensary.

REPEALS

SECTION 175. (1) Sections 26, 42, 55, 71, 81, 82, 83, 84, 85 and 86, chapter 1, Oregon Laws 2015, are repealed.

(2) Section 132 of this 2015 Act is repealed on December 31, 2016.

SECTION 175a. ORS 475.324 is repealed.

SECTION 175b. Section 173 of this 2015 Act is repealed on January 1, 2019.

CONFLICTS

SECTION 176. If Senate Bill 964 becomes law, sections 32, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67 (amending section 5, chapter 1, Oregon Laws 2015), 69, 70, 71, 72, 73 and 74, chapter —, Oregon Laws 2015 (Enrolled Senate Bill 964), are repealed.

SERIES PLACEMENT

SECTION 177. (1) Sections 3, 4, 10, 13, 17 to 23, 26, 29 to 32, 34, 34a, 113, 114 and 116 of this 2015 Act are added to and made a part of sections 3 to 70, chapter 1, Oregon Laws 2015.

(2) Sections 81a, 82a, 83, 85 to 85e, 86a to 87 and 88 to 88f of this 2015 Act are added to and made a part of ORS 475.300 to 475.346.

DATES

SECTION 178. (1) Sections 3, 4, 10, 13, 17 to 23, 26, 29 to 32, 34, 91 to 112, 114, and 116 of this 2015 Act and the amendments to statutes and session law by sections 1, 2, 5 to 9, 11, 12, 14 to 16, 24, 25, 27, 28, 33, 35 to 68, 115 and 137 to 167 of this 2015 Act become operative on January 1, 2016.

(2) Section 113 of this 2015 Act becomes operative on November 15, 2015.

(3) The Oregon Liquor Control Commission, Oregon Health Authority and State Department of Agriculture may take any action before the operative dates specified in subsections (1) and (2) of this section that is necessary to enable the commission, authority and departments to exercise all the duties, functions and powers conferred on the commission, authority and departments by sections 3, 4, 10, 13, 17 to 23, 26, 29 to 32, 34, 91 to 112, 114 and 116 of this 2015 Act and the amendments to statutes and session law by sections 1, 2, 5 to 9, 11, 12, 14 to 16, 24, 25, 27, 28, 33, 35 to 68, 115 and 137 to 167 of this 2015 Act.

SECTION 179. (1) Sections 81a, 82a, 83, 85 to 85e, 86b to 87 and 88 to 88f of this 2015 Act, the amendments to statutes and session law by sections 80 to 80b, 81, 82, 84, 86, 87a, 87b, 89 to 90i, 168 and 169 of this 2015 Act and the repeal of ORS 475.324 by section 175a of this 2015 Act become operative on March 1, 2016.

(2) The Oregon Health Authority, the Oregon Liquor Control Commission and the State Department of Agriculture may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority, commission and department to exercise, on and after the operative date specified in subsection (1) of this section,

all the duties, powers and functions conferred on the authority, commission and department by sections 81a, 82a, 83, 85 to 85e, 86b to 87 and 88 to 88f of this 2015 Act and the amendments to statutes and session law by sections 80 to 80b, 81, 82, 84, 86, 87a, 87b, 89 to 90i, 168 and 169 of this 2015 Act.

SECTION 180. The Oregon Health Authority shall adopt rules that the authority is charged with adopting under sections 91 to 112 of this 2015 Act on or before November 15, 2015.

CAPTIONS

SECTION 181. The unit captions used in this 2015 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2015 Act.

EMERGENCY CLAUSE

SECTION 182. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House June 24, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 30, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State