



City of Bend

ISSUE SUMMARY

MEETING DATE:
December 2, 2015

SUBJECT: Text Amendments to the Bend Development Code for Marijuana Businesses

STAFF MEMBERS: Jon Skidmore, Assistant City Manager, Susanna Julber, AICP, Senior Project & Policy Analyst, Colin Stephens, AICP, Planning Manager, Pauline Hardie, AICP, Senior Code Planner and Rachel Ruppel, Associate Planner

DEPARTMENT: City Manager's Office and Community Development

ACTION REQUIRED:

- Motion
- Public Hearing Date:
- Ordinance 1st Reading Date: 12/02/15
- Ordinance 2nd Reading Date: 12/16/15
- Resolution (roll call vote required)
- Information/Direction
- Consent Agenda (adopted by motion)

ADVISORY BOARD/COMMISSION RECOMMENDATION:

- Approval
- Denial
- None Forwarded
- Not applicable

Comments: The Council-appointed Marijuana Technical Advisory Committee (MTAC) met four times at noticed public meetings before forwarding a recommendation to the Planning Commission. On 11/9/15 the Commission held a work session with MTAC members, followed by a public hearing and voted to recommend that the City Council approve the attached text.

STAFF RECOMMENDATION: Approve the proposed text in Attachment A as recommended by the MTAC and Planning Commission.

RECOMMENDED LANGUAGE FOR MOTION: On first reading: I move for the first reading of the Ordinance amending Bend Development Code Chapter 1.2 Definitions, Chapter 2.2 Commercial Zoning Districts, 2.3 Mixed-Use Zoning Districts, 2.4 Industrial Zoning Districts, and Chapter 3.6 Special Standards For Certain Uses To Define, Permit And Establish Standards For Marijuana Businesses And Declaring And Emergency.

On second reading: I move for the second reading and adoption by roll call vote of the ordinance amending Bend Development Code Chapter 1.2 Definitions, Chapter 2.2 Commercial Zoning Districts, 2.3 Mixed-Use Zoning Districts, 2.4 Industrial Zoning Districts, And Chapter 3.6 Special Standards For Certain Uses To Define, Permit And Establish Standards For Marijuana Businesses and Declaring And Emergency.

Project/issue relates to:**Council Goals and Priorities** **Bend 2030 Vision** **Not Applicable** **ISSUE / COUNCIL DECISION & DISCUSSION POINTS:**

City Council has two goals relating to this issue:

- Be responsive and proactive in addressing neighborhood livability concerns.
- Incentivize economic health and diversification.

In order to proactively address compatibility concerns raised by members of the public, the Council created a Marijuana Technical Advisory Committee (MTAC) via Resolution 3006 (Attachment B) to consider Development Code and licensing regulations that create appropriate time, place and manner restrictions for marijuana businesses. At the same time, Council's direction was to not be overly regulatory to allow new businesses to emerge and grow, thereby diversifying the local economy.

BACKGROUND AND DISCUSSION:

The MTAC held public work sessions, which included public comment, on September 17, 2015, October 1, 2015, October 15, 2015, October 29, 2015, November 12 2015, and November 19, 2015 to help draft proposed amendments (the latter two meetings were for the operating license municipal code). The amendments include a new section, 3.6.300.P Marijuana Businesses, which includes the required land use review procedures for new marijuana businesses, spacing distances between various protected land uses including schools and child care facilities, and standards for marijuana businesses (medical marijuana dispensaries, marijuana recreational facilities, grow/production facilities, wholesale, processing facilities, and testing, research and development). It also prohibits uses such as drive-through dispensaries/facilities and temporary dispensaries/facilities in any zone and home occupations. In addition, amendments are proposed to the land use tables in the commercial, mixed-use and industrial districts to include certain marijuana businesses where appropriate. For internal consistency, minor amendments are proposed to Section 2.4.800 Special Development Standards, Section 3.6.200. N Home Occupations, and 3.6.300.J. Neighborhood Commercial Uses.

A memo outlining the key issues put forth by the MTAC for the Planning Commission to consider is attached (Attachment C), which also explains which issues the MTAC came to consensus on. The issues are summarized below. The following are majority positions of the MTAC (the memo sets forth minority positions when applicable).

The MTAC discussed spacing distances between marijuana dispensaries/marijuana recreational facilities (retail) and various land uses including schools, child care facilities, parks, libraries and also between marijuana retail uses. After discussion, the MTAC agreed to spacing standards for schools, child care facilities and between dispensaries. The spacing distance specified is a straight line measurement from the closest points between property lines of the affected properties, which is slightly more restrictive than the state definition.

The MTAC also discussed the appropriate zoning districts for the different types of marijuana businesses. The MTAC agreed that no marijuana-related businesses should be allowed in residential zoning districts. The MTAC also agreed to permit retail in the commercial and mixed-use districts. While the MTAC discussed limiting retail in the Industrial Districts by 1000 square feet or 10% whichever is less, the MTAC did not approve a limitation. The MTAC voted not to allow retail in the Industrial Districts.

The MTAC further agreed to the following:

- Prohibit retail sales in the Industrial Districts (by a 5-4 vote)
- Permit wholesale in Commercial, Mixed Employment, Mixed-Use Riverfront and Industrial Districts (Consensus)
- Permit producing in the Industrial Districts (Consensus)
- Permit research and testing in the Commercial, Mixed Employment, Mixed-Use Riverfront and Industrial Districts (Consensus)
- Permit processing in the Commercial, Mixed Employment, Mixed-Use Riverfront and Industrial Districts; however, identify different types of processing based on potential impacts/hazards of the type of processing sought to be done by the licensee and require fire marshal approval. (Consensus)

The MTAC discussed how to regulate existing marijuana dispensaries/marijuana recreational facilities when a protected use moves within the buffer area. Staff proposed the following concepts:

- a. Legally existing medical marijuana dispensaries and marijuana recreational facilities will continue to be permitted outright when a protected use moves into the buffer area.
- b. A legally existing medical marijuana dispensary may convert to a marijuana recreational facility or a legally existing marijuana recreational facility may convert to a medical marijuana dispensary within the proposed buffer areas if it is a permitted or conditional use in the zone and meets all state siting requirements.

The MTAC discussed an alternative concept that would require existing medical marijuana dispensaries that switched to marijuana recreational facilities and existing marijuana recreational facilities that switched to medical marijuana dispensaries to comply with all provisions of the current code, including spacing standards, regardless if a protected use moves within the buffer area. By a 3-3 vote with one abstaining, the motion did not carry. Therefore, the proposal by staff was included in the draft text.

The Planning Commission held a work session on 11/09/15 with the MTAC to discuss the MTAC's package of amendments for marijuana businesses. Following the work session, the Planning Commission held a public hearing and received public testimony including testimony from the School District and Park District requesting establishment or extension of buffers around their facilities. The Planning Commission reviewed different buffers around a number of uses (schools, parks, child care facilities, and between marijuana recreational facilities and between marijuana recreational facilities and medical marijuana dispensaries) which would affect the land available to marijuana retail businesses. After careful consideration and deliberation, the Planning Commission came to the same recommendation as the MTAC to include buffers of 1,000 feet around schools and 150 feet around child care facilities. The Planning Commission voted (4-2) to recommend that the City Council approve the attached text amendments for marijuana businesses as proposed by the MTAC (Attachment D). The Planning Commission had some concern with the decision to not allow retail sale in industrial zones, but ultimately did not change the recommendation.

CURRENT YEAR BUDGET IMPACTS IDENTIFIED BY DEPARTMENT: The proposed code update will require all new marijuana businesses to be reviewed through Site Plan Review,

Minimum Development Standards or other applicable development review process listed in BDC Chapter 4, to ensure the standards of this section and other relevant portions of this code are met. These processes are similar to the current processes for new businesses and therefore no significant impacts are identified to occur. In addition, the Community Development Department staff will assist in the establishment of the licensing program. Funding for this service is to be determined.

FINANCIAL PERSPECTIVE & RECOMMENDATION:

Reviewed by: Rosemary Schaefer Date: November 20, 2015

LEGAL REVIEW & RECOMMENDATION:

Reviewed by: Mary A. Winters Date: November 19, 2015

COMMUNITY INVOLVEMENT PROCESS: The MTAC held public work sessions on September 17, 2015, October 1, October 15, 2015, October 29, 2015, November 12, 2015, and November 19, 2015. Each of these meetings was open to the public and accepted public testimony. The meeting documents are posted at www.bendoregon.gov/mtac The Planning Commission held a work session and public hearing on November 9, 2015.

On October 16, 2015, the City of Bend sent a postcard to 3,461 property owners within the commercial, mixed-use and industrial zoning districts to notify individuals of the Planning Commission's public hearing on November 9, 2015. A notice of the public hearing was printed in the Bend Bulletin on October 18, 2015. Mailed notice was sent to the neighborhood associations on October 14, 2015, and to known marijuana businesses on November 3, and November 4, 2015. Notice of the City Council and Planning Commission public hearings was also mailed to all recognized neighborhood associations.

The application, all documents and evidence submitted by or on behalf of the applicant, as well as public comments, can be viewed in ePlans from the City of Bend website. To access ePlans, go to the City of Bend website at www.bendoregon.gov. From the **ONLINE SERVICES** menu at the top of the webpage, select **ePlans (Public Viewer)**. Pop-up blockers may cause issues opening eplans so you may have to disable your pop-up blocker for this site. Then enter the file number **PZ 15-0836** in the e-plans search bar.

POTENTIAL IMPACTS TO THE BUSINESS COMMUNITY: The proposed amendments for marijuana businesses provide clear rules and regulations for the business community.

PROS & CONS:

Pros:

- The proposed amendments will allow marijuana businesses to develop in Bend and provide job opportunities while continuing to enhance the community's overall livability.

Cons:

- The mapping of the proposed distance requirements indicate that there are somewhat limited areas where potential medical marijuana dispensaries and marijuana recreational facilities can locate; however, it will not create an undue burden as determined by the MTAC and Planning Commission.

ATTACHMENTS:

- A. Draft Ordinance
- B. City Council Resolution 3006
- C. MTAC Memorandum
- D. Planning Commission Recommendation
- E. HB 3400 Enrolled
- F. OLCC Temporary Oregon Administrative Rules

Marijuana Ordinance—Land Use

AN ORDINANCE AMENDING BDC CHAPTER 1.2 DEFINITIONS, CHAPTER 2.2 COMMERCIAL ZONING DISTRICTS, 2.3 MIXED-USE ZONING DISTRICTS, 2.4 INDUSTRIAL ZONING DISTRICTS, AND CHAPTER 3.6 SPECIAL STANDARDS FOR CERTAIN USES TO DEFINE, PERMIT AND ESTABLISH STANDARDS FOR MARIJUANA BUSINESSES, **AND DECLARING AN EMERGENCY**

Findings:

A. Oregon voters approved Ballot Measure 67, the Oregon Medical Marijuana Act, in November 1998. The Oregon legislature has amended the Oregon Medical Marijuana Act and the Act authorizes local government to adopt reasonable regulations related to the hours of operation, location and manner in which medical marijuana dispensaries are regulated. Cities have home rule authority to adopt regulations that are not unconstitutional or preempted by federal or state law.

B. Oregon voters approved Ballot Measure 91 in November 2014, legalizing the personal use and possession of adult recreational marijuana on July 1, 2015, with certain limitations, including restrictions on use in public, no growing in public view, a restriction on minors attempting to buy or entering licensed premises, prohibiting the sale or use by persons under 21, and imposing licensing and other requirements on marijuana cultivation, processing and dispensing facilities. The measure, as amended by the Oregon State Legislature in 2015 (HB 3400 A, Section 33), authorizes reasonable conditions on the manner in which licensed retailers, processors, producers, wholesalers may sell marijuana; reasonable limitations on the hours during which a licensed marijuana facility may sell marijuana items; reasonable requirements related to a public's access to a licensed premises; reasonable distance between facilities (no more than 1000 feet); and reasonable limitations on where a licensed premises may be located. Such regulations must be consistent with the City's comprehensive plan, development code and public health and safety laws.

C. Senate Bill 460 allows medical marijuana retailers to sell limited amounts of adult recreational marijuana beginning October 1, 2015. This provision sunsets on December 31, 2016.

D. These regulations are also adopted in furtherance and protection of the health, safety and welfare of the citizens of Bend, including under the broad home rule authority of the City of Bend in Sections 6 and 4 of its municipal charter: "Except as this charter prescribes otherwise, and as the Oregon Constitution reserves municipal legislative powers to the voters of the city, all powers of the city are vested in the council." "The City has all powers that the constitutions, statutes, and common law of the United States and of the State of Oregon now or hereafter expressly or impliedly grant or allow the City, as fully as though this charter specifically enumerated each of those powers."

E. In determining what is “reasonable,” the City Council reviewed existing precedents across the state of Oregon, as well as Colorado and Washington states, particularly communities that are most similar in population, industry, tourism, demographics and mindset, to the City of Bend, to help decide what would be most appropriate for Bend.

F. The City Council, in adopting this ordinance, is concerned with fairness, neighborhood compatibility, respecting the will of the voters, protecting youth and minors, crime and nuisance issues, a non-reactive balanced approach, allowing new businesses to emerge and grow, and learning from the experience of other communities.

G. Adverse effects of marijuana facilities to the community, addressed through reasonable time, place and manner restrictions, such as the ones adopted by this ordinance, include:

1. Exposure of minors to the use and commercial aspects of marijuana;
2. Offensive odors from marijuana cultivation, production and storage; and
3. Incompatible development in residential areas.

H. After waiting to see what amendments to Measure 91 would come out of the 2015 legislative session, and what regulations would be considered for adoption by the implementing agencies, the Oregon Health Authority (OHA) and the Oregon Liquor Control Commission (OLCC), at a City Council work session on August 19, 2015, the City Council gave direction to City Staff to begin to formulate reasonable regulations for Council consideration prior to the effective date for retail marijuana sale licensing, sometime on or after January 4, 2016. The City Council tasked three councilors with working with staff on a preliminary basis on land use and licensing regulations.

I. On September 16, 2015, the City Council formed a Marijuana Technical Advisory Committee (MTAC) to act as a nine-member temporary committee to provide input to the Planning Commission and City Council regarding reasonable time, place and manner regulation of marijuana businesses, including retail, growing, wholesaling, testing and processing. The MTAC was purposefully made up of knowledgeable members of the industry, marijuana law, the Bend La Pine School District, and the community at large. A Planning Commissioner was also a non-voting member. The Committee held six meetings between September and November of 2015 (four of which were specifically on the land use regulations; the latter two were on the operating license code, adopted concurrently). The Committee had extensive discussions and debate on various policy recommendations, particularly distance requirements. The Committee sought to balance a strong and heartfelt desire to protect the community’s youth from under-age drug use with the industry’s willingness to be responsive but also serve legitimate medical needs and develop their legal businesses for adults.

J. During this period, the OLCC published several versions of draft rules, and then comprehensive final temporary rules, which City Staff and the MTAC took into consideration in formulating both the local land use code and operating license regulations. OHA has also published additional draft rules on the medical marijuana dispensary program, labeling, concentration and serving size and testing. Measure 91, HB 3400, other applicable statutes and the various rules were all linked and made available for public review on the MTAC website, along with other relevant materials. The

MTAC record is incorporated into the Council record made part of the Council record for review. PZ No. 15-0836. <http://www.ci.bend.or.us/index.aspx?page=1321>.

K. The City gave Measure 56 notice on October 16, 2015 to all properties in the industrial, commercial, mixed residential and mixed employment zones within the city of Bend.

L. The MTAC forwarded its recommended land use ordinance to the Planning Commission, via a memo dated October 29, 2015.

M. On November 9, 2015, the Planning Commission held a work session, with a presentation from members of the MTAC, and had a duly noticed public hearing. At the conclusion of the hearing, the Commission voted four in favor, two opposed and one vacant to forward an affirmative recommendation to the City Council. A majority of the Planning Commission voted not to include a buffer for parks, or to increase the buffer to 1250 feet for schools, as they did not find a reasonable rationale for the buffer, although they agreed with the concern (protection of youth from exposure to adult activity). The Planning Commission recommendation and record is incorporated by reference into the Council record and made part of the Council record for review. PZ No. 15-0836. <http://www.ci.bend.or.us/index.aspx?page=1321>.

N. The City Council held a work session on November 30, 2015, and a duly noticed public hearing on December 2, 2015. The City Council considered the MTAC and Planning Commission recommendation, the record and the public testimony in adopting these codes. [insert any changes, and rationale].

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Bend Development Code Chapter 1.2 Definitions, Chapter 2.2 Commercial Zoning Districts, 2.3 Mixed-Use Zoning Districts; 2.4 Industrial Zoning Districts, and; Chapter 3.6 Special Standards for Certain Uses, are amended to define, permit and establish standards for marijuana businesses as shown below in Exhibit A.

Section 2. In addition to the findings set forth above, the City Council adopts the findings in Exhibit B.

Section 3. Declaration of Emergency. The City Council finds that this ordinance is necessary for the health, safety and welfare of the public, and finds that an emergency exists. The ordinance therefore becomes effective upon its passage.

EXHIBIT A

Note:

Text in underlined typeface is proposed to be added

Text in strikethrough typeface is proposed to be deleted.

***Indicates where text from the existing code has been omitted because it will remain unchanged.

Bend Development Code

Chapter 1.2

DEFINITIONS

Cannabinoid concentrate means a substance obtained by separating cannabinoids from marijuana by:

- (a) A mechanical extraction process; or
- (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.

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

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 heat or pressure; or
- (c) Any other process identified by the commission, in consultation with the authority, by rule.

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.

Cultivation or cultivate means: (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption, or incorporation into a recreational marijuana-infused product.

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant of the Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

Marijuana business means any person or entity appropriately licensed by the Oregon Health Authority or the Oregon Liquor Control Commission that sells, produces, cultivates, grows, wholesales, processes, researches, develops or tests medical marijuana or recreational adult use marijuana within the City of Bend.

Marijuana grow sites means a specific location registered by the Oregon Health Authority and used by the grower to produce marijuana for medical use by a specific patient. Medical grow sites are regulated by state law as follows: 12 mature plants are allowed per grow site in residential zones; 48 mature plants per grow site in all other zones. If all grows at the site had registered with the State of Oregon by January 2, 2015, the grow site is limited to the number of plants at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in residential zones and 96 mature plants per grow site in other zones.

Marijuana items means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

Marijuana processing means the preparing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates, and cannabinoid extracts for medical or recreational purposes.

Marijuana producing means the manufacture, planting, cultivation, growing, or harvesting of retail recreational marijuana.

Marijuana recreational retailer means a person or entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state. Marijuana retailer is also referred to as “recreational retail facility” or a “marijuana recreational facility.”

Marijuana testing laboratory means a laboratory that tests marijuana items for producer, processor, wholesaler or retail licensees.

Marijuana wholesaler means a person or entity that purchases marijuana items in this state for resale to a person other than a consumer.

Medical marijuana dispensary means a medical marijuana facility or entity registered with the Oregon Health Authority under ORS 475.300 et. seq.

Recreational marijuana means any marijuana intended for recreational use which meets all requirements for recreational marijuana contained in this chapter, Oregon state law, and any other applicable law.

Recreational marijuana business means (a) any person or entity that cultivates, produces, distributes, possesses, transports, or makes available more than six marijuana plants or one ounce of marijuana, (b) any person that sells any amount of marijuana, or (c) any person who possesses marijuana openly or publicly. The term recreational marijuana business or retail shall not include the private cultivation, possession, production, or use within a person's residence of no more than (a) six plants in an enclosed, locked space, (b) one ounce of marijuana, or (c) the marijuana produced by no more than six plants on the premises where the plants were grown if the plants were grown in an enclosed, locked space.

School means a building where individuals gather to receive educational instruction, either public or private, except as otherwise specifically defined in this code. School does not include a child care facility as defined in this Chapter.

Usable Marijuana means the dried leaves and flowers of marijuana. “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.

Chapter 2.2
COMMERCIAL ZONING DISTRICTS (CB, CC, CL, CG)

Table 2.2.300 – Permitted and Conditional Uses

Land Use	CB	*CC	CL	CG
<u>* Medical Marijuana Dispensary and Marijuana Recreational Retailer</u>				
– <u>building footprint 50,000 square feet or less</u>	P	P	P	P
– <u>building footprint greater than 50,000 square feet</u>	P	C	P	P
<u>*Marijuana Wholesale (more than 75% of sales are wholesale)</u>	N	N	P	P
<u>*Marijuana Testing, Research and Development Facilities</u>	P	P	P	P
<u>* Marijuana Processing of Cannabinoid Concentrates and Cannabinoid Products Not Including Processing of Cannabinoid Extracts.</u>				
– <u>greater than 5,000 sq. ft.</u>	N	N	C	N
– <u>5,000 sq. ft. or less with retail outlet</u>	P	P	P	P

Chapter 2.3
MIXED-USE ZONING DISTRICTS (ME, MR AND PO)

Table 2.3.200
Permitted and Conditional Uses

Land Use	ME	MR	PO
<u>* Medical Marijuana Dispensary and Marijuana</u>			
<u>Recreational Retailer</u> <u>• not to exceed 50,000 sq. ft. ground floor</u>	P	P	N
<u>• not to exceed 75,000 sq. ft. ground floor for ME</u> <u>zoned property five acres or greater</u>	P	N	N
<u>*Marijuana Wholesale (more than 75% of sales are</u> <u>wholesale)</u>	P	P	N
<u>*Marijuana Testing, Research and Development</u> <u>Facilities</u>	P	P	N
<u>* Marijuana Processing of Cannabinoid Concentrates</u> <u>and Cannabinoid Products Not Including Processing of</u> <u>Cannabinoid Extracts.</u>	P	P	N

Chapter 2.4
INDUSTRIAL ZONING DISTRICTS (IG, IL)

Table 2.4.300 – Permitted and Conditional Uses

Land Use	IG	IL
<u>*Marijuana Grow Sites and Marijuana Producing</u>	<u>P</u>	<u>P</u>
<u>- *Marijuana Wholesale</u>	<u>P</u>	<u>P</u>
<u>- *Marijuana Testing, Research and Development Facilities</u>	<u>P</u>	<u>P</u>
<u>* Marijuana Processing of Cannabinoid Concentrates and Cannabinoid Products.</u>	<u>P</u>	<u>P</u>
<u>* Marijuana Processing of Cannabinoid Extracts</u>	<u>P</u>	<u>P</u>

2.4.800 Special Development Standards.

The Industrial Districts accommodate a range of manufacturing, industrial office uses, and small personal service commercial uses.

A. Small-Scale Personal and Professional Services. Small-scale personal and professional services and incidental sales uses as specified in Table 2.4.300 shall comply with the following development standards:

1. Small-scale personal service commercial uses may be allowed when accessory to a primary user of the industrial development (in the case of a large industrial area). No more than 10 percent or 2,500 square feet (whichever is greater) of a permitted or conditionally allowed industrial development may be occupied by an accessory commercial use, unless otherwise approved through a Conditional Use Permit.

2. Primary use, small-scale personal and professional and incidental sale uses may occur as stand-alone businesses when the total gross floor area of each use does not exceed 2,500 square feet. For multiple uses, where the uses share one building, the total building area shall not exceed 5,000 square feet. A single use may occupy 5,000 square feet if approved through a Conditional Use Permit. These nonindustrial use buildings shall comply with the provisions of [BDC 2.2.600, Commercial Design Review Standards](#).

B. Location Standards. Child care centers and other similar uses shall be limited to properties located at the perimeter of the Industrial Districts with frontage on arterial or collector streets, unless they are accessory to a primary permitted use. When these uses occur as a stand-alone building, the provisions of [BDC 2.2.600, Commercial Design Review Standards](#), apply.

C. Buffering. A buffer with a minimum width of 20 feet is required between industrial development and any adjacent Residential Zoning District. The buffer shall provide landscaping to screen the industrial activities, such as parking, service and delivery areas, from the Residential Districts. The buffer shall not contain trash receptacles or be used for the storage of equipment, materials, vehicles, etc. [Ord. NS-2195, 2013; Ord. NS-2016, 2006]

D. Prohibited Uses. Retail medical marijuana dispensaries and marijuana recreational facilities.

Chapter 3.6

SPECIAL STANDARDS AND REGULATIONS FOR CERTAIN USES

3.6.200 Residential Uses.

N. Home Occupations. The purpose of this subsection is to support those who are engaged in small business ventures that could not necessarily be sustained if it were necessary to lease commercial quarters, or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. There are two types of home occupation uses.

2. Type II. A Type II home occupation exceeds the standards for a Type I home occupation and is subject to a Conditional Use Permit as described in BDC Chapter 4.4, Conditional Use Permits. In addition to the Type I requirements, a Type II home occupation shall also meet the following operational criteria:

3. Prohibited Home Occupation Uses.
 - a. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, State or Federal standards, or that can be detected beyond the property line, is prohibited.
 - b. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music by music teachers, art or craft supplies by arts or crafts instructors, computer software by computer consultants, and similar incidental items for sale by home business are allowed.
 - c. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, such as:
 - i. Ambulance service;
 - ii. Animal hospital, veterinary services, kennels or animal boarding;
 - iii. Auto and other vehicle repair, including auto painting;

iv. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on site.

d. Marijuana businesses.

3.6.300 Nonresidential Uses.

J. Neighborhood Commercial Uses.

2. Uses Not Permitted. Automobile-oriented and automobile-dependent uses and marijuana businesses are expressly prohibited.

P. Marijuana Businesses.

1. Purpose. The purpose of this section is to reasonably regulate those who are engaged in the retail sale, producing, growing, processing, wholesaling and testing of medical and recreational marijuana, consistent with state law, in the City of Bend, and to:
 - a. Protect the general health, safety, property, and welfare of the public;
 - b. Balance the right of individuals to produce and access marijuana and marijuana derivatives consistent with state law, with the need to minimize adverse impacts to nearby land uses, residents, property owners and businesses that may result from the production, storage, distribution, sale, and/or use of marijuana and derivatives;
 - c. Adopt reasonable time, place and manner restrictions on both medical and recreational dispensaries tied to specific community impacts;
 - d. Prevent or reduce criminal activity that may result in harm to persons or property;
 - e. Limit the exposure of minors to the commercial aspects of marijuana;
 - f. Prevent or reduce diversion of state-licensed marijuana and marijuana derivatives to minors; and
 - g. Minimize impacts to the city's public safety services by reducing calls for service.

2. Applicability.

- a. The provisions of this section apply to marijuana businesses within the Bend city limits.
- b. Relationship to other development standards. Marijuana businesses must comply with all of the standards of this section and all applicable state laws and regulations.

3. Procedure.

- a. All new marijuana businesses must be reviewed through Site Plan Review, Minimum Development Standards or other applicable development review process listed in BDC Chapter 4, to ensure the standards of this section and other relevant portions of this code are met.
- b. The City will require a proof of a license from the State (either OHS or OLCC) confirming the security plan and all other required improvements, prior to final occupancy.

4. Standards for Retail Marijuana.

- a. Permitted. Medical Marijuana Dispensaries and Marijuana Recreational Facilities are permitted in all CB, CC, CI, CG, ME and MR zoning districts (unless listed as a conditional use, and subject to size limitations). See use tables in BDC Title 2.
- b. Co-Location of Marijuana Dispensaries and Marijuana Recreational Facilities. Dispensaries and facilities selling medical and retail marijuana may co-locate only during such time and selling the product as allowed by state law and regulation.
- c. Medical Marijuana Dispensaries and Marijuana Recreational Facilities and Proximity to Other Land Uses.
 - i. The distance limitations and definition established by this section shall control over the minimum distance limitations set forth by the state of Oregon.
 - ii. The distance limitation are based upon the uses surrounding the proposed marijuana dispensary or facility site on the date the development application is submitted.
 - iii. A dispensary or facility shall not be located within the specified proximity of any of the uses listed below. For purposes of this paragraph, the distance specified is a straight line measurement from the closest points between property lines of the affected properties.
- d. Medical Marijuana Dispensaries. No medical marijuana dispensary may operate or conduct business within:

- i. 1,000 feet of a public or secondary school for which attendance is compulsory under ORS 339.020 (2013); or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a) (2013);
- ii. 1000 feet of another medical marijuana dispensary; or
- iii. 150 feet of a licensed child care facility, as defined in BDC 1.2.

e. Existing Medical Marijuana Dispensaries.

- i. A medical marijuana dispensary existing as of December 15, 2015 is considered a permitted use regardless if (1) an existing licensed child care facility is located within 150 feet; (2) an existing public or secondary school for which attendance is compulsory under ORS 339.020 (2013), or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a) (2013), is located within 1,000 feet, or (3) a another medical marijuana dispensary is located within 1,000 feet.
- ii. A marijuana dispensary existing at the time any use listed in subsection P.4.d above is subsequently sited within the specified proximity of the dispensary, may remain at that location and is considered a permitted use and not a nonconforming use.
- iii. An existing marijuana dispensary may change to a recreational facility provided the business complies with applicable state laws and permitted and conditional use tables, and goes through the procedure identified in P.3.

f. Marijuana Recreational Facility. No marijuana recreational facility may operate or conduct business within:

- i. 1,000 feet of a public or secondary school for which attendance is compulsory under ORS 339.020 (2013); or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a) (2013); or
- ii. 150 feet of a licensed child care facility, as defined in BDC 1.2.

g. Existing Marijuana Recreational Facility.

- i. A Marijuana Recreational Facility existing at the time any use listed in subsection P.4.f above is subsequently sited within the specified proximity of the Facility, may remain at that location and is considered a permitted use and not a nonconforming use.
- ii. An existing recreational retail facility may change to a marijuana dispensary provided the business complies with applicable state laws and permitted and conditional use tables, and goes through the process identified in P.3.

- h. Building Site. The proposed development must be located inside a permanent building. Outdoor storage of any merchandise, plants, or other materials is not allowed.
- i. Display. All marijuana plants, products, and paraphernalia must be completely screened from view. There must be no marijuana, marijuana product, or marijuana paraphernalia visible from the exterior of the building.

5. Production and Growing of Commercial Marijuana.

- a. Recreational Production of Marijuana. Recreational production (growing) facilities are prohibited in all residential and commercial zoned and designated areas. It is allowed in industrial zoned and designated areas, as further set forth in the use tables in Title 2. Retail marijuana is not permitted at the same facility as industrial production.
- b. Medical Grow Sites. Medical grow sites are permitted as allowed by State law up to the possession limitations for registered cardholders or designated primary caregivers of the cardholder in all zones.
- c. The private growing or cultivating of marijuana for non-commercial personal use, as defined by state law, is not regulated by this chapter.

6. Commercial Marijuana Wholesale. Marijuana wholesale is permitted in CL, CG, MR and ME zones, similar to other wholesale uses (75% of the business use needs to be wholesale). Wholesale is not permitted in residential designated areas. Wholesale is permitted in all industrial zoned and designated areas. See use tables in BDC Title 2.

7. Marijuana Processing.

- a. Residential Zones. Marijuana processing is prohibited in residentially zoned and designated areas.
- b. Marijuana processing of cannabinoid concentrates and cannabinoid products not including processing of cannabinoid extracts is permitted in all CB, CC, CL, CG, ME and MR zoned and designated areas, and in the commercial zoned and designated areas provided the building area is 5,000 square feet or less and the use includes a retail component as identified in the use tables in BDC Title 2. It is permitted conditionally subject to size limitations in the CL zoned and designated areas, and it is permitted in all Industrial zoned and designated areas. See use tables. All marijuana processing is subject to Fire Marshal approval.
- c. Marijuana processing of cannabinoid extracts is allowed only in Industrial zoned and designated areas, subject to state law and Fire Marshal approval. See use tables in BDC Title 2.

8. Marijuana Testing Laboratory. Marijuana testing laboratories is permitted in IL, IG, CB, CC, CI, CG, ME and MR zoned and designated areas, as further set forth in the use tables in BDC Title 2.
9. Operating License Required. All marijuana businesses operating in the City of Bend must obtain an operating license pursuant to Bend Municipal Code, Chapter 7.50, Marijuana Business Operating License. This applies to existing businesses (businesses currently operating at the time of adoption of this code) in order to continue operating and as a condition to obtaining land use approval under this chapter.
10. Marijuana Businesses-Prohibited Uses. In addition to the other prohibitions identified in this Section, the following uses or practices are also prohibited:
 - a. Drive-through dispensaries or facilities in any zone.
 - b. Temporary dispensaries or facilities in any zone.
 - c. On-site consumption of marijuana at a licensed dispensary or marijuana recreational facilities unless: (1)The consumption is conducted for testing in compliance with OAR 333-008-1190; or (2) The consumption is allowed under the medical exception granted in OAR 333-008-1200.
 - d. Co-location of medical marijuana dispensaries at grow sites.
 - e. Marijuana businesses in residential zones or designations.
 - f. Retail medical marijuana dispensaries or marijuana recreational facilities in industrial zones.
 - g. Marijuana businesses as a home occupation in any zone.
 - h. Marijuana businesses as a Neighborhood Commercial use.
11. Compliance and Enforcement.
 - a. Any premise, house, building, structure or place of any kind where marijuana is sold, manufactured, bartered, or distributed in violation of state law or this ordinance is a public nuisance. The City may institute an action in Deschutes County in the name of the City to temporarily or permanently enjoin such nuisance.
 - b. This remedy is in addition to, and not in lieu of, any other civil, criminal or administrative remedies available to the City authorized under this code, or by law or equity.

First Reading:

Second reading and adoption by roll call vote:

YES: NO: ABSTAIN:

Jim Clinton, Mayor

Attest:

Robyn Christie, City Recorder

Approved as to form:

Mary A. Winters

EXHIBIT B
FINDINGS OF FACT
DEVELOPMENT CODE UPDATE
AMENDMENT PZ 15-0836

Procedural Findings

The application was initiated by the city in accordance with BDC 4.1.500. Timely and sufficient notice of the public hearings was provided pursuant to BDC 4.1.515. Notice of the proposed amendments was provided to the Department of Land Conservation and Development (DLCD) on October 2, 2015 and a revision was sent on November 2, 2015. On October 16, 2015, the City of Bend sent a postcard that included language as required by ORS 227.186 to 3,461 property owners within the commercial, mixed-use and industrial zoning districts to notify individuals of the Planning Commission's public hearing on November 9, 2015. The Bend Planning Division published a notice of the Planning Commission and City Council public hearings for the proposed Development Code text amendments in the Bend Bulletin on October 18, 2015. A public hearing notice was also sent to all of the City's Neighborhood Associations on October 14, 2015 and to known marijuana businesses on November 3, 2015 and November 4, 2015. The Planning Commission held a public hearing on November 9, 2015 and recommended approval of the proposed amendments. The City Council held a work session on November 30, 2015 and a public hearing and first reading on December 2, 2015. On December 16, 2015, the Council held a second reading and voted unanimously for emergency adoption of the amendments.

Criteria of Approval

- (1) The Bend Area General Plan
- (2) Bend Development Code
 - (a) Chapter 4.6, Land Use District Map and Text Amendments; Section 4.6.200(B), Criteria for Legislative Amendments

Applicable Procedures

- (1) Bend Development Code
 - (a) Chapter 4.1, Land Use Review and Procedures

Findings Regarding Compliance with Applicable Criteria:

**CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE, CHAPTER 4.6,
LAND USE DISTRICT MAP AND TEXT AMENDMENTS**

4.6.200 Legislative Amendments.

A. Applicability, Procedure and Authority. Legislative amendments generally involve broad public policy decisions that apply to other than an individual

property owner. These include, without limitation, amendments to the text of the comprehensive plan and map, Development Code and changes in the zoning map not directed at a small number of properties. They are reviewed using the Type IV procedure in accordance with Chapter 4.1, Land Use Review and Procedures and shall conform to Section 4.6.600, Transportation Planning Rule Compliance. A Legislative Amendment may be approved or denied.

FINDING: The amendments to the text of the Development Code involve broad public policy rather than an individual property owner. Therefore, the Legislative Amendment Procedures of this section are the appropriate procedures for this review.

B. Criteria for Legislative Amendments. The applicant shall submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve or to deny an application for a Legislative Amendment shall be based on all of the following criteria:

1. The request is consistent with the applicable State land use law;

FINDING: The proposed amendments are consistent with the applicable State land use law. In particular, they satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, and Goal 9: Economic Development.

Goal 1, Citizen Involvement, is satisfied through following the City's acknowledged text amendment process that includes a Planning Commission public hearing, followed by a City Council public hearing. In addition, on September 16, 2015, the City Council adopted Resolution 3006 establishing a Marijuana Technical Advisory Committee (MTAC) to provide input to the Planning Commission and City Council regarding reasonable time, place and manner regulations of marijuana businesses. The MTAC held six public work sessions between September and November of 2015. The creation of the MTAC was an integral component of the community involvement process regarding legal marijuana. The process allowed stakeholders to comment, participate and impact how the City of Bend will regulate a new industry. Public comment was accepted at all MTAC meetings.

Goal 2, Land Use Planning, requires a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. The Goal is met because the City followed the land use planning process and policy framework established in the City's acknowledged Comprehensive Plan (General Plan) and Development Code as a basis for the decisions and actions related to the new regulations regarding the use of land and to assure an adequate factual base for these decisions and actions. The proposed amendments will be adopted by the City Council after a public hearing. Multiple opportunities were provided for review and comment by citizens and affected governmental units during the preparation of this ordinance.

Goal 2 specifically states that minor plan changes such as the marijuana business regulations, should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established. The MTAC was purposefully made up of knowledgeable members of the industry, marijuana law, the Bend LaPine School District, and the community at large. The MTAC held six meetings between September and November of

2015. The MTAC had extensive discussion and debate on various policy recommendations, particularly distance requirements. The MTAC studied several maps with buffers around various uses including schools, childcare facilities, libraries, parks and also between marijuana recreational facilities. The proposed amendments include buffers around schools and childcare facilities in order to balance a strong and heartfelt desire to protect the community's youth from drug use while still allowing medical marijuana dispensaries to locate in the City of Bend to serve legitimate medical needs and also to allow marijuana retail to develop their legal businesses for adults.

Goal 9, Economic Development, is implemented through Oregon Administrative Rule (OAR) Division 9 which is intended to ensure that each jurisdiction maintain an adequate land supply for economic development and employment growth. The Goal is satisfied because the proposed amendments establish regulations that are not overly regulatory and allow existing and new marijuana businesses to emerge and grow, thereby diversifying the local economy.

Other Goals: Because the proposed code amendments are limited in scope, there are no other Statewide Planning Goals or Administrative Rules applicable to this amendment. Likewise, there are no applicable Oregon Revised Statutes that are criteria applicable to these amendments (Note, consistency with the Transportation Planning Rule (TPR) is discussed further in this document).

Based on the above discussion, the proposed text amendment to the Development is consistent with the statewide planning goals and therefore complies with the requirement that the amendment be consistent with state land use planning law.

2. The request is consistent with the applicable Bend Area General Plan goals and policies;

FINDING: The “goals” established in the general plan express the desires of the residents of Bend as the City progresses into the future. The “goals” are generally carried out through “policies,” which are statements of public policy. The following Goals and Policies are applicable:

Chapter 1: Plan Management and Citizen Involvement

Goals:

- *Quality Economic Growth — Assure an opportunity for a stable, vital and diverse economy while sustaining its environment/ecological support systems.*

Policies:

- *Policy 15: The city shall continue to use advisory committees in their planning process, members of which are selected by an open process, and who are widely representative of the community.*
- *Policy 16: The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and*

public forums, to provide an opportunity for all the citizens of the area to participate in the planning process

FINDING: At the August 19, 2015 City Council meeting, Council directed staff to move forward with a committee consisting of interested and knowledgeable stakeholders to help develop and refine land use regulations and licensing requirements for marijuana businesses. Staff recruited a 9-person committee that included representatives from the industry, marijuana law, the Bend La Pine School District, and the community at large. The City Council approved the MTAC on September 16, 2015 during a council meeting. The MTAC met six times between September and November of 2015 to discuss and draft the proposed amendments.

The Planning Commission held a work session and public hearing on November 9, 2015 and the City Council held a work session on November 30, 2015 and a public hearing on December 2, 2015 regarding the proposed amendments.

Chapter 6: The Economy and Lands for Economic Growth

Goals

- *Have a vital, diverse and sustainable economy, while enhancing the community's overall livability.*
- *Stimulate economic development that will diversify and strengthen economic activity and provide primary and secondary job opportunities for local residents.*

FINDING: The proposed code amendments include updating the commercial, mixed-use and industrial land use tables to include appropriate marijuana businesses. The amendments also include procedures, development standards, distance requirements, and prohibited uses. As detailed in the map (Attachment A) approved by the MTAC on October 15, 2015, the mapping of the proposed distance requirements indicates that there are somewhat limited areas where potential medical marijuana dispensaries and marijuana recreational facilities can locate; however, it would not create an undue burden. The proposed amendments will still allow marijuana businesses to develop in Bend and provide job opportunities while continuing to enhance the community's overall livability. Based on the findings stated above, the proposed text amendments are consistent with the applicable General Plan Goals and Policies.

3. The applicant can demonstrate a public need or benefit for the proposed amendment.

FINDING: The City of Bend recognizes the importance of its unique qualities and diverse economy that supports a mix of uses. The proposed amendments address compatibility concerns raised by members of the public; however, they are not overly regulatory to allow new businesses to emerge and grow, thereby diversifying the local economy. The proposed regulations will give City staff and the general public clear direction regarding what may be permitted, and where.

4.6.500 Record of Amendments.

The City Recorder shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.

FINDING: Once the Development Code text amendment is adopted by ordinance, the City Recorder will maintain a record of the amendments and the revised provisions will be included as part of the Bend Development Code available to the public on the City's website.

4.6.600 Transportation Planning Rule Compliance.

When a development application includes a proposed comprehensive plan amendment or land use district change, or both, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

FINDING: The new text amends the Bend Development Code, a functional component of the General Plan, and is an amendment to a land use regulation as noted in OAR 660-012-0060. The proposed amendments are not tied to any one development application and do not affect the functional classification of any street. The proposed amendments will have no measurable impacts on the amount of traffic on the existing transportation system; therefore the proposed text amendments do not cause a "significant effect" under ORS 660-012-0060.

V. CONCLUSION:

Based on the above Findings, the proposed Development Code text amendment meets all applicable criteria for adoption.

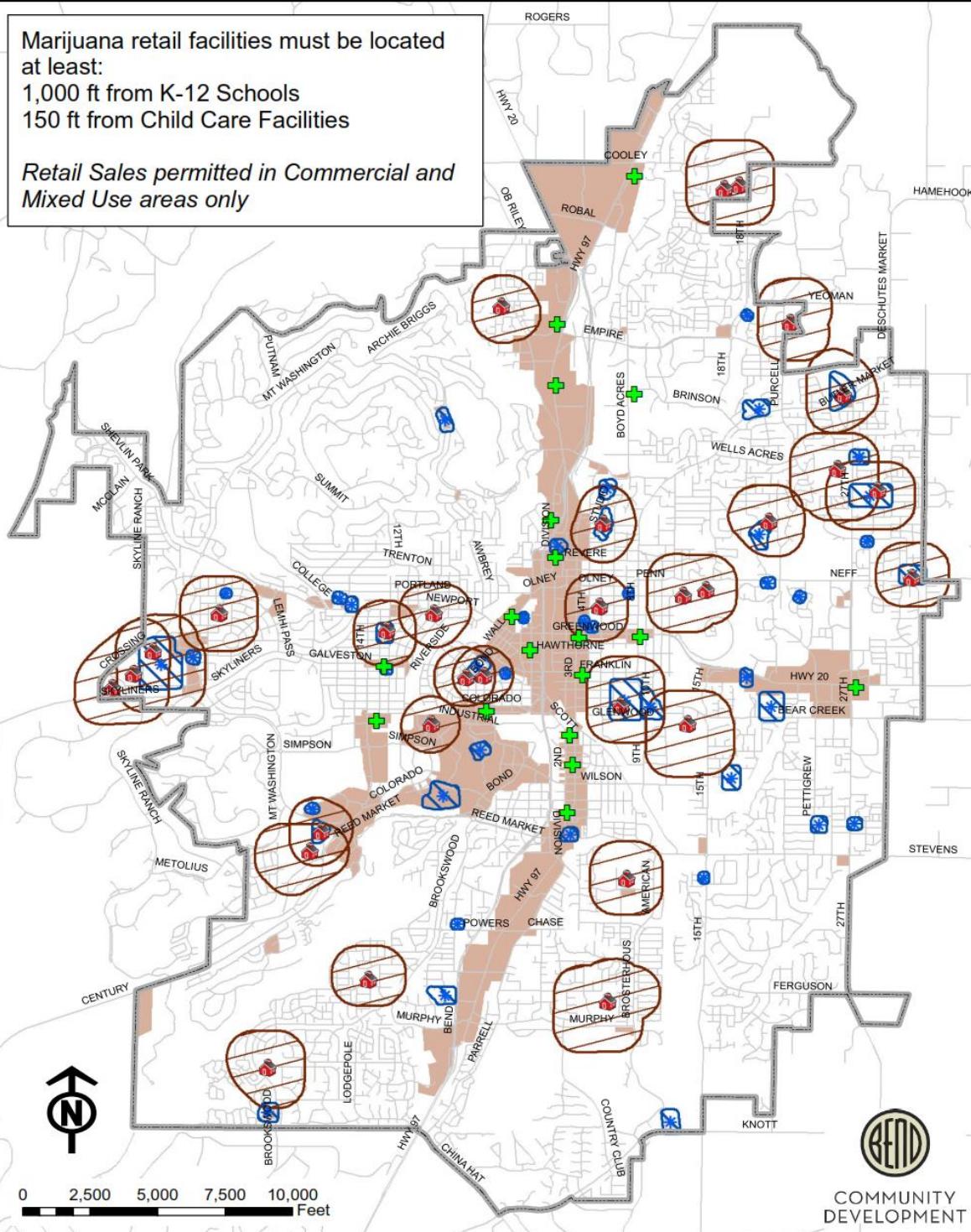
Attachment A

Proposed Separation Distances for Marijuana Retail Facilities
Marijuana Technical Advisory Committee - voted October 15, 2015

Marijuana retail facilities must be located at least:

1,000 ft from K-12 Schools
150 ft from Child Care Facilities

Retail Sales permitted in Commercial and Mixed Use areas only



- Dispensaries
- 1,000 ft of a School
- K-12 Schools
- 150 ft of a Child Care Facility
- Child Care Facilities
- General Plan designation allows retail

Notes: General Plan designations shown allow retail uses (CB, CC, CG, CL, ME, MR). Separation distances measured radially from property boundary.

Map created 10/30/15 by CDD Planning Division - for planning purposes only. Data sources: Oregon State GIS Clearinghouse, Deschutes County, City of Bend, and Oregon Health Authority for 18 licensed dispensaries.

RESOLUTION NO. 3006

A RESOLUTION APPOINTING THE MARIJUANA TECHNICAL ADVISORY COMMITTEE

Findings

- A. The City Council is aware of the concerns raised by community members relating to the siting of marijuana businesses based on potential impacts from such businesses.
- B. Through Ballot Measure 91 & Senate Bill 3400, the City has the authority to regulate time, place and manner restrictions relating to marijuana bills including recreational retail facilities.
- C. Council wishes to work with knowledgeable members of the community to assist in developing regulations for this new industry.
- D. The Council's goal is to have adoption of reasonable time place and manner regulations in December of 2015, prior to the OLCC issuance of recreational licenses to operate in the City of Bend.

Based on these findings,

THE CITY OF BEND RESOLVES AS FOLLOWS:

- Section 1. The Marijuana Technical Advisory Committee (MTAC) is established to act as a temporary committee to provide input to the Planning Commission and City Council regarding reasonable time, place and manner regulation of marijuana growing, processing and retailing. The MTAC shall have 10 members. The Planning Commission representative is a non-voting member.
- Section 2. The Committee's responsibility is to work with the Planning Commission and the three councilors tasked with helping formulate reasonable regulations for Council consideration, based on the general and preliminary direction given by Council at the August 19 work session. The direction consisted of providing recommendations on specific Development Code Regulations and a licensing program to effect reasonable time, place and manner regulations for marijuana businesses, based on models from similar communities, taking a balanced approach. Combined, these regulations should address timing, compatibility and operational concerns.
- Section 3. Exhibit A contains the names of those people appointed to the MTAC.
- Section 4. This resolution takes effect immediately upon adoption.

Adopted by roll call vote by the City Council on September 16, 2015.

Yes: Jim Clinton, Mayor
Victor Chudowsky
Doug Knight
Sally Russell
Nathan Boddie
Casey Roats
Barb Campbell

No: None



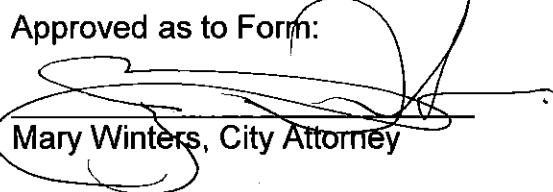
Jim Clinton, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to Form:



Mary Winters, City Attorney

Exhibit A
Marijuana Technical Advisory Committee Members

Mary Fleishmann (Community at large)
Cheri Helt (Bend La Pine School District Board Member)
Michael Hughes (Marijuana Law)
Jeremy Kwit (Marijuana Industry)
Hunter Neubauer (Marijuana Industry)
Tristain Reisfar (Community at large)
David Rosen (Community at large)
Cynthia Tisher (Community at large)
Lisa Uri (Community at large)
Joan Vinci (City of Bend Planning Commission) – non voting

ATTACHMENT C



CITY OF BEND

M E M O R A N D U M

To: Planning Commission

From: Marijuana Technical Advisory Committee (MTAC)

Re: Marijuana Business BDC Update

Date: 10/29/2015

The 10 members of the City of Bend Marijuana Technical Advisory Committee (MTAC) forward to you the attached recommended Bend Development Code text amendments to various Chapters regarding marijuana business regulations for your consideration. There were 9 voting members of the MTAC as Planning Commissioner Joan Vinci served in a non-voting capacity.

In order to proactively address compatibility concerns raised by members of the public, the City Council asked the MTAC to provide recommendations to create appropriate time, place and manner restrictions for marijuana businesses, as allowed by state law, as long as reasonable. At the same time, Council's direction was to not be overly regulatory in order to allow new businesses to emerge and grow, thereby diversifying the local economy.

The members of the MTAC worked collaboratively and efficiently to develop recommendations to the Bend Development Code that address time, place and manner regulations under land use. We studied and reviewed Oregon Health Authority (OHA - medical marijuana) and Oregon Liquor Control Commission (OLCC-recreational marijuana) regulations, spacing distances between various land uses, the different types of marijuana businesses (which include: retail [dispensary/recreational], wholesale, processing, producing and testing and research) and appropriate zoning districts for such uses. The resulting regulations are primarily "place" restrictions on marijuana businesses.

The MTAC was successful in reaching consensus on the appropriate zoning districts for several of the marijuana-related uses; however, we were not able to reach consensus on the spacing requirements. We did have a thorough and lively discussion.

Thank you for the opportunity to serve and help you make these important decisions.

Recommendations

1. Spacing Standards.

The MTAC discussed spacing distances between marijuana dispensaries/marijuana recreational facilities (retail) and various land uses including schools, childcare facilities, parks, libraries and also between marijuana retail uses. One member of the MTAC preferred that the spacing standards be applicable to all types of marijuana business and not just to marijuana dispensaries/marijuana recreational facilities. The spacing distance specified is a straight line measurement from the closest points between property lines of the affected properties.

Schools. OHA and OLCC require 1,000 feet from a public or secondary school for which attendance is compulsory under ORS 339.020 (2013); or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a) (2013). The MTAC discussed retaining the 1,000 feet or increasing it to 1,250 feet. By a 5-4 vote, the MTAC voted in favor of 1,000 feet.

Distance for Retail from Schools:

- 1250 feet: 4
- 1000 feet: 5

Childcare Facilities. The MTAC discussed spacing standards of 150 feet and 300 feet between retail and childcare facilities, as defined in BDC 1.2, Definitions. By a 5-4 vote, the MTAC voted in favor of 150 feet.

Distance for Retail from Childcare Facilities:

- 150 feet: 5
- 300 feet: 4

Retail. The OLCC rules allow a spacing standard up to 1,000 feet between marijuana recreational retail facilities. The MTAC discussed spacing standards of 0 feet between retail facilities and 1,000 feet between retail facilities. By a 6-3 vote, the MTAC voted in favor of no spacing standards between retail facilities and between retail facilities and dispensaries. Since OHA requires a spacing distance of 1,000 feet between dispensaries, that distance was not discussed.

Retail to Retail (not including dispensary to dispensary)

- 1000 feet: 3
- 0 feet: 6

Parks. By a 7-2 vote, the MTAC voted in favor of no spacing standards between retail and parks. On October 29, 2015, the BPRD gave a presentation asking for a 250-foot buffer. By a 4-3 vote, the MTAC voted not to reconsider a spacing standard.

Libraries. By a 6-3 vote, the MTAC voted in favor of no spacing standards between retail and libraries.

2. Zoning Districts- Commercial, Mixed-Use and Industrial Districts

The MTAC discussed the appropriate zoning districts for the different types of marijuana businesses. The MTAC agreed that no marijuana-related businesses should be allowed in Residential Zoning Districts. The MTAC also agreed to permit retail in the commercial and mixed-use districts; however, there was one member who preferred that retail be prohibited in the downtown commercial areas and in the Old Mill District which is zoned Mixed Riverfront (MR) and there was one member who preferred that it be prohibited in the mixed-use districts. The MTAC also discussed allowing retail in the Industrial Districts as an ancillary use, but limiting it to 1000 square feet or 10% whichever is less (not approved); however, the MTAC voted not to allow any retail in the Industrial Districts.

The MTAC further agreed to the following:

- Prohibit retail sales in the Industrial Districts (by a 5-4 vote)
- Permit wholesale in Commercial, Mixed Employment, Mixed-Use Riverfront and Industrial Districts (Consensus)
- Permit producing in the Industrial Districts (Consensus)
- Permit research and testing in the Commercial, Mixed Employment, Mixed-Use Riverfront and Industrial Districts (Consensus)
- Permit processing in the Commercial, Mixed Employment, Mixed-Use Riverfront and Industrial Districts; however, identify different types of processing based on potential impacts/hazards of the type of processing sought to be done by the licensee and require fire marshal approval. (Consensus)

The following tables provide the details for each non-residential zoning district.

CHAPTER 2.2 COMMERCIAL ZONING DISTRICTS

Central Business District (CB), Convenience Commercial District (CC), Limited Commercial District (CL) and the General Commercial District (CG).

Table 2.2.300 – Permitted and Conditional Uses

Land Use	CB	*CC	CL	CG
<u>* Medical Marijuana Dispensary and Marijuana</u>				
<u>Recreational Retailer</u>				
– building footprint less than 50,000 square feet	P	P	P	P
– building footprint greater than 50,000 square feet	P	C	P	P
<u>*Marijuana Wholesale (more than 75% of sales are</u> wholesale)	N	N	P	P
<u>*Marijuana Testing, Research and development facilities</u>	P	P	P	P
<u>* Marijuana Processing of Cannabinoid Concentrates and</u> <u>Cannabinoid Products Not Including Processing of</u> <u>Cannabinoid Extracts.</u>				
– greater than 5,000 sq. ft.	N	N	C	N
– less than 5,000 sq. ft. with retail outlet	P	P	P	P

CHAPTER 2.3 MIXED USE ZONING DISTRICTS

Mixed Employment (ME), Mixed-Use Riverfront (MR), and Professional Office (PO)

Table 2.3.200- Permitted and Conditional Uses

Land Use	ME	MR	PO
<u>* Medical Marijuana Dispensary and Marijuana Recreational Retailer</u>	-	-	-
• <u>not to exceed 50,000 sq. ft. ground floor</u>	<u>P</u>	<u>P</u>	<u>N</u>
• <u>not to exceed 75,000 sq. ft. ground floor for ME zoned property</u> <u>five acres or greater</u>	<u>P</u>	<u>N</u>	<u>N</u>
<u>*Marijuana Wholesale (more than 75% of sales are wholesale)</u>	<u>P</u>	<u>P</u>	<u>N</u>
<u>*Marijuana Testing, Research and development facilities</u>	<u>P</u>	<u>P</u>	<u>N</u>
<u>* Marijuana Processing of Cannabinoid Concentrates and</u> <u>Cannabinoid Products Not Including Processing of Cannabinoid</u> <u>Extracts.</u>	<u>P</u>	<u>P</u>	<u>N</u>

CHAPTER 2.4 INUSTRIAL ZONING DISTRICTS

General Industrial District (IG) and Light Industrial District (IL)

Table 2.4.300 – Permitted and Conditional Uses

Land Use	IG	IL
*Marijuana grow sites	P	P
*Marijuana Wholesale	P	P
*Marijuana Testing, Research and development facilities	P	P
* Marijuana Processing of Cannabinoid Concentrates and Cannabinoid Products Not Including Processing of Cannabinoid Extracts.	P	P
* Marijuana Processing of Cannabinoid Extracts	P	P

3. Existing Medical Marijuana Dispensaries and Marijuana Recreational Facility Uses

The MTAC discussed how to regulate existing marijuana dispensaries/marijuana recreational facilities when a protected use moves within the buffer area. Staff proposed the following concepts:

- a. Legally existing medical marijuana dispensaries and marijuana recreational facilities will continue to be permitted outright when a protected use (a school or child care facility) moves into the buffer area.
- b. A legally existing medical marijuana dispensary may convert to a marijuana recreational facility or a legally existing marijuana recreational facility may convert to a medical marijuana dispensary within the proposed buffer areas if it is a permitted or conditional use in the zone and meets all state siting requirements.

The MTAC discussed an alternative concept that would require existing medical marijuana dispensaries that switched to marijuana recreational facilities and existing marijuana recreational facilities that switched to medical marijuana dispensaries to comply with the current code, regardless of whether a protected use moves within the buffer area. By a 3-3 vote with one abstaining, the motion did not carry. Therefore, the proposal by staff is forwarded to the Planning Commission but making a note of the alternative concept that was discussed.

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF BEND**

DEVELOPMENT CODE TEXT AMENDMENTS ()
PZ 15-0836 ()
RECOMMENDATION TO THE CITY COUNCIL ()

NATURE OF THE APPLICATION

Type IV Legislative amendments to the Bend Development Code Chapter 1.2 Definitions, Chapter 2.2 Commercial Zoning Districts, Chapter 2.3 Mixed-Use Zoning Districts, Chapter 2.4 Industrial Zoning Districts, and Chapter 3.6 Special Standards for Certain Uses are amended to define, permit and establish standards for marijuana businesses. The application was initiated in accordance with BDC 4.1.500.

1. Timely and sufficient notice of the public hearing was provided pursuant to BDC 4.1.515.
2. On November 9, 2015, the Planning Commission held a work session with a presentation from members of the MTAC to review the proposed amendments.
3. On November 9, 2015, the Planning Commission opened a public hearing on Project Number 15-0836, received testimony from members of the public, and began deliberation. The Planning Commission voted to recommend that the City Council approve the proposed text amendments in Exhibit A.
4. The findings in support of this recommendations (Project Number 15-0836) are contained in Exhibit B.
5. The Planning Division staff report and recommendation, together with written public comments and testimony of persons at the hearing have been considered and are part of the record of this proceeding.

CONCLUSION

The proposed amendments to the Bend Development Code regarding Chapter 1.2 Definitions, Chapter 2.2 Commercial Zoning Districts, Chapter 2.3 Mixed-Use Zoning Districts, 2.4 Industrial Zoning Districts, and Chapter 3.6 Special Standards for Certain Uses meet the applicable Development Code criteria of approval found at 4.6.200

RECOMMENDATION

It is RECOMMENDED by the Bend Planning Commission that the City Council adopt an ordinance amending the Bend Development Code as contained in Exhibit A and the findings in Exhibit B.

This RECOMMENDATION was approved by the Bend Planning Commission on November 9, 2015.

Attest -

Ayes: 4

Nays: 2

Absent: 0

Abstain: 0

Vacant: 1

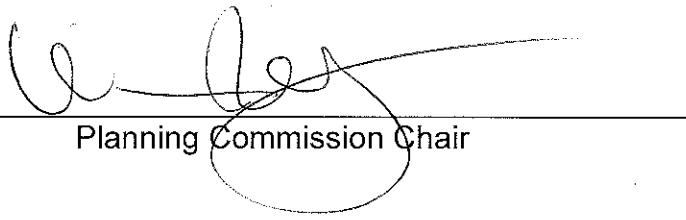

Planning Commission Chair

EXHIBIT A

Note:

Text in underlined typeface is proposed to be added

Text in strikethrough typeface is proposed to be deleted.

***Indicates where text from the existing code has been omitted because it will remain unchanged.

Bend Development Code

Chapter 1.2

DEFINITIONS

Cannabinoid concentrate means a substance obtained by separating cannabinoids from marijuana by:

- (a) A mechanical extraction process; or
- (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.

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

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 heat or pressure; or
- (c) Any other process identified by the commission, in consultation with the authority, by rule.

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.

Cultivation or cultivate means: (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption, or incorporation into a recreational marijuana-infused product.

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant of the Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

Marijuana business means any person or entity appropriately licensed by the Oregon Health Authority or the Oregon Liquor Control Commission that sells, produces,

cultivates, grows, wholesales, processes, researches, develops or tests medical marijuana or recreational adult use marijuana within the City of Bend.

Marijuana grow sites. Grow site means a specific location registered by the Oregon Health Authority and used by the grower to produce marijuana for medical use by a specific patient. Medical grow sites are regulated by state law as follows: 12 mature plants are allowed per grow site in residential zones; 48 mature plants per grow site in all other zones. If all grows at the site had registered with the State of Oregon by January 2, 2015, the grow site is limited to the number of plants at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in residential zones and 96 mature plants per grow site in other zones.

Marijuana processing means the preparing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates, and cannabinoid extracts for medical or recreational purposes.

Marijuana producing means the manufacture, planting, cultivation, growing, or harvesting of retail recreational marijuana.

Marijuana recreational retailer means a person or entity licensed by the Oregon Liquor Control Commission to sell useable recreational marijuana and marijuana-infused products in a retail outlet. Marijuana retailer is also referred to as "recreational retail facility" or a "marijuana recreational facility."

Marijuana testing laboratory means a laboratory that tests marijuana items for producer, processor, wholesaler or retail licensees.

Marijuana wholesaler means a person or entity that purchases marijuana items in this state for resale to a person other than a consumer.

Medical marijuana dispensary means a medical marijuana facility or entity registered with the Oregon Health Authority under ORS 475.300 et. seq.

Recreational marijuana means any marijuana intended for recreational use which meets all requirements for recreational marijuana contained in this chapter, Oregon state law, and any other applicable law.

Recreational marijuana business means (a) any person or entity that cultivates, produces, distributes, possesses, transports, or makes available more than six marijuana plants or one ounce of marijuana, (b) any person that sells any amount of marijuana, or (c) any person who possesses marijuana openly or publicly. The term recreational marijuana business or retail shall not include the private cultivation, possession, production, or use within a person's residence of no more than (a) six plants in an enclosed, locked space, (b) one ounce of marijuana, or (c) the marijuana produced by no more than six plants on the premises where the plants were grown if the plants were grown in an enclosed, locked space.

School means a building where individuals gather to receive educational instruction, either public or private, except as otherwise specifically defined in this code. School does not include a child care facility as defined in this Chapter.

Usable Marijuana means the dried leaves and flowers of marijuana. “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.

Chapter 2.2
COMMERCIAL ZONING DISTRICTS (CB, CC, CL, CG)

Table 2.2.300 – Permitted and Conditional Uses

Land Use	CB	*CC	CL	CG
<u>* Medical Marijuana Dispensary and Marijuana Recreational Retailer</u>				
– <u>building footprint 50,000 square feet or less</u>	P	P	P	P
– <u>building footprint greater than 50,000 square feet</u>	P	C	P	P
<u>*Marijuana Wholesale (more than 75% of sales are wholesale)</u>	N	N	P	P
<u>*Marijuana Testing, Research and Development Facilities</u>	P	P	P	P
<u>* Marijuana Processing of Cannabinoid Concentrates and Cannabinoid Products Not Including Processing of Cannabinoid Extracts.</u>				
– <u>greater than 5,000 sq. ft.</u>	N	N	C	N
– <u>5,000 sq. ft. or less with retail outlet</u>	P	P	P	P

Chapter 2.3
MIXED-USE ZONING DISTRICTS (ME, MR AND PO)

Table 2.3.200

Permitted and Conditional Uses

Land Use	ME	MR	PO
* <u>Medical Marijuana Dispensary and Marijuana Recreational Retailer</u>			
• <u>not to exceed 50,000 sq. ft. ground floor</u>	P	P	N
• <u>not to exceed 75,000 sq. ft. ground floor for ME zoned property five acres or greater</u>	P	N	N
* <u>Marijuana Wholesale (more than 75% of sales are wholesale)</u>	P	P	N
* <u>Marijuana Testing, Research and Development Facilities</u>	P	P	N
* <u>Marijuana Processing of Cannabinoid Concentrates and Cannabinoid Products Not Including Processing of Cannabinoid Extracts.</u>	P	P	N

Chapter 2.4
INDUSTRIAL ZONING DISTRICTS (IG, IL)

Table 2.4.300 – Permitted and Conditional Uses

Land Use	IG	IL
<u>*Marijuana Grow Sites and Marijuana Producing</u>	<u>P</u>	<u>P</u>
<u>*Marijuana Wholesale</u>	<u>P</u>	<u>P</u>
<u>*Marijuana Testing, Research and Development Facilities</u>	<u>P</u>	<u>P</u>
<u>* Marijuana Processing of Cannabinoid Concentrates and Cannabinoid Products.</u>	<u>P</u>	<u>P</u>
<u>* Marijuana Processing of Cannabinoid Extracts</u>	<u>P</u>	<u>P</u>

2.4.800 Special Development Standards.

The Industrial Districts accommodate a range of manufacturing, industrial office uses, and small personal service commercial uses.

A. Small-Scale Personal and Professional Services. Small-scale personal and professional services and incidental sales uses as specified in Table 2.4.300 shall comply with the following development standards:

1. Small-scale personal service commercial uses may be allowed when accessory to a primary user of the industrial development (in the case of a large industrial area). No more than 10 percent or 2,500 square feet (whichever is greater) of a permitted or conditionally allowed industrial development may be occupied by an

accessory commercial use, unless otherwise approved through a Conditional Use Permit.

2. Primary use, small-scale personal and professional and incidental sale uses may occur as stand-alone businesses when the total gross floor area of each use does not exceed 2,500 square feet. For multiple uses, where the uses share one building, the total building area shall not exceed 5,000 square feet. A single use may occupy 5,000 square feet if approved through a Conditional Use Permit. These nonindustrial use buildings shall comply with the provisions of BDC 2.2.600, Commercial Design Review Standards.

B. Location Standards. Child care centers and other similar uses shall be limited to properties located at the perimeter of the Industrial Districts with frontage on arterial or collector streets, unless they are accessory to a primary permitted use. When these uses occur as a stand-alone building, the provisions of BDC 2.2.600, Commercial Design Review Standards, apply.

C. Buffering. A buffer with a minimum width of 20 feet is required between industrial development and any adjacent Residential Zoning District. The buffer shall provide landscaping to screen the industrial activities, such as parking, service and delivery areas, from the Residential Districts. The buffer shall not contain trash receptacles or be used for the storage of equipment, materials, vehicles, etc. [Ord. NS-2195, 2013; Ord. NS-2016, 2006]

D. Prohibited Uses. Retail medical marijuana dispensaries and marijuana recreational facilities.

Chapter 3.6

SPECIAL STANDARDS AND REGULATIONS FOR CERTAIN USES

3.6.200 Residential Uses.

N. Home Occupations. The purpose of this subsection is to support those who are engaged in small business ventures that could not necessarily be sustained if it were necessary to lease commercial quarters, or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. There are two types of home occupation uses.

2. Type II. A Type II home occupation exceeds the standards for a Type I home occupation and is subject to a Conditional Use Permit as described in BDC

Chapter 4.4, Conditional Use Permits. In addition to the Type I requirements, a Type II home occupation shall also meet the following operational criteria:

3. Prohibited Home Occupation Uses.

- a. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, State or Federal standards, or that can be detected beyond the property line, is prohibited.
- b. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music by music teachers, art or craft supplies by arts or crafts instructors, computer software by computer consultants, and similar incidental items for sale by home business are allowed.
- c. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, such as:
 - i. Ambulance service;
 - ii. Animal hospital, veterinary services, kennels or animal boarding;
 - iii. Auto and other vehicle repair, including auto painting;
 - iv. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on site.
- d. Marijuana businesses.

3.6.300 Nonresidential Uses.

J. Neighborhood Commercial Uses.

2. Uses Not Permitted. Automobile-oriented and automobile-dependent uses and marijuana businesses are expressly prohibited.

P. Marijuana Businesses.

1. Purpose. The purpose of this section is to reasonably regulate those who are engaged in the retail sale, producing, growing, processing, wholesaling and testing of medical and recreational marijuana, consistent with state law, in the City of Bend and to:
 - a. Protect the general health, safety, property, and welfare of the public;
 - b. Balance the right of individuals to produce and access marijuana and marijuana derivatives consistent with state law, with the need to minimize adverse impacts to nearby land uses, residents, property owners and businesses that may result from the production, storage, distribution, sale, and/or use of marijuana and derivatives;
 - c. Adopt reasonable time, place and manner restrictions on both medical and recreational dispensaries tied to specific community impacts;
 - d. Prevent or reduce criminal activity that may result in harm to persons or property;
 - e. Limit the exposure of minors to the commercial aspects of marijuana;
 - f. Prevent or reduce diversion of state-licensed marijuana and marijuana derivatives to minors; and
 - g. Minimize impacts to the city's public safety services by reducing calls for service.
2. Applicability.
 - a. The provisions of this section apply to marijuana businesses within the Bend city limits.
 - b. Relationship to other development standards. Marijuana businesses must comply with all of the standards of this section and all applicable state laws and regulations.
3. Procedure.
 - a. All new marijuana businesses must be reviewed through Site Plan Review, Minimum Development Standards or other applicable development review process listed in BDC Chapter 4, to ensure the standards of this section and other relevant portions of this code are met.
 - b. The City will require a proof of a license from the State (either OHS or OLCC) confirming the security plan and all other required improvements, prior to final occupancy.

4. Standards for Retail Marijuana.

- a. Permitted. Medical Marijuana Dispensaries and Marijuana Recreational Facilities are permitted in all CB, CC, CI, CG, ME and MR zoning districts (unless listed as a conditional use, and subject to size limitations). See use tables in BDC Title 2.
- b. Co-Location of Marijuana Dispensaries and Marijuana Recreational Facilities. Dispensaries and facilities selling medical and retail marijuana may co-locate only during such time and selling the product as allowed by state law and regulation.
- c. Medical Marijuana Dispensaries and Marijuana Recreational Facilities and Proximity to Other Land Uses.
 - i. The distance limitations and definition established by this section shall control over the minimum distance limitations set forth by the state of Oregon.
 - ii. The distance limitation are based upon the uses surrounding the proposed marijuana dispensary or facility site on the date the development application is submitted.
 - iii. A dispensary or facility shall not be located within the specified proximity of any of the uses listed below. For purposes of this paragraph, the distance specified is a straight line measurement from the closest points between property lines of the affected properties.
- d. Medical Marijuana Dispensaries. No medical marijuana dispensary may operate or conduct business within:
 - i. 1,000 feet of a public or secondary school for which attendance is compulsory under ORS 339.020 (2013); or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a) (2013);
 - ii. 1000 feet of another medical marijuana dispensary; or
 - iii. 150 feet of a licensed child care facility, as defined in BDC 1.2.
- e. Existing Medical Marijuana Dispensaries.
 - i. A medical marijuana dispensary existing as of December 15, 2015 is considered a permitted use regardless if (1) an existing licensed child care facility is located within 150 feet; (2) an existing public or secondary school for which attendance is compulsory under ORS 339.020 (2013), or a private

or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a) (2013), is located within 1,000 feet, or (3) a another medical marijuana dispensary is located within 1,000 feet.

- ii. A marijuana dispensary existing at the time any use listed in subsection P.4.d above is subsequently sited within the specified proximity of the dispensary, may remain at that location and is considered a permitted use and not a nonconforming use.
- iii. An existing marijuana dispensary may change to a recreational facility provided the business complies with applicable state laws and permitted and conditional use tables, and goes through the procedure identified in P.3.

f. Marijuana Recreational Facility. No marijuana recreational facility may operate or conduct business within:

- i. 1,000 feet of a public or secondary school for which attendance is compulsory under ORS 339.020 (2013); or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a) (2013); or
- ii. 150 feet of a licensed child care facility, as defined in BDC 1.2.

g. Existing Marijuana Recreational Facility.

- i. A Marijuana Recreational Facility existing at the time any use listed in subsection P.4.f above is subsequently sited within the specified proximity of the Facility, may remain at that location and is considered a permitted use and not a nonconforming use.
- ii. An existing recreational retail facility may change to a marijuana dispensary provided the business complies with applicable state laws and permitted and conditional use tables, and goes through the process identified in P.3.

h. Building Site. The proposed development must be located inside a permanent building. Outdoor storage of any merchandise, plants, or other materials is not allowed.

- i. Display. All marijuana plants, products, and paraphernalia must be completely screened from view. There must be no marijuana, marijuana product, or marijuana paraphernalia visible from the exterior of the building.

5. Production and Growing of Commercial Marijuana.

- a. Recreational Production of Marijuana. Recreational production (growing) facilities are prohibited in all residential and commercial zoned and designated

areas. It is allowed in industrial zoned and designated areas, as further set forth in the use tables in Title 2. Retail marijuana is not permitted at the same facility as industrial production.

- b. Medical Grow Sites. Medical grow sites are permitted as allowed by State law up to the possession limitations for registered cardholders or designated primary caregivers of the cardholder in all zones.
- c. The private growing or cultivating of marijuana for non-commercial personal use, as defined by state law, is not regulated by this chapter.

6. Commercial Marijuana Wholesale. Marijuana wholesale is permitted in CL, CG, MR and ME zones, similar to other wholesale uses (75% of the business use needs to be wholesale). Wholesale is not permitted in residential designated areas. Wholesale is permitted in all industrial zoned and designated areas. See use tables in BDC Title 2.

7. Marijuana Processing.

- a. Residential Zones. Marijuana processing is prohibited in residentially zoned and designated areas.
- b. Marijuana processing of cannabinoid concentrates and cannabinoid products not including processing of cannabinoid extracts is permitted in all CB, CC, CL, CG, ME and MR zoned and designated areas, and in the commercial zoned and designated areas provided the building area is 5,000 square feet or less and the use includes a retail component as identified in the use tables in BDC Title 2. It is permitted conditionally subject to size limitations in the CL zoned and designated areas, and it is permitted in all Industrial zoned and designated areas. See use tables. All marijuana processing is subject to Fire Marshal approval.
- c. Marijuana processing of cannabinoid extracts is allowed only in Industrial zoned and designated areas, subject to state law and Fire Marshal approval. See use tables in BDC Title 2.

8. Marijuana Testing Laboratory. Marijuana testing laboratories is permitted in IL, IG, CB, CC, CI, CG, ME and MR zoned and designated areas, as further set forth in the use tables in BDC Title 2.

9. Operating License Required. All marijuana businesses operating in the City of Bend must obtain an operating license pursuant to Bend Municipal Code, Chapter 7.50, Marijuana Business Operating License. This applies to existing businesses (businesses currently operating at the time of adoption of this code) in order to continue operating and as a condition to obtaining land use approval under this chapter.

10. Marijuana Businesses-Prohibited Uses. In addition to the other prohibitions identified in this Section, the following uses or practices are also prohibited:

- a. Drive-through dispensaries or facilities in any zone.
- b. Temporary dispensaries or facilities in any zone.
- c. On-site consumption of marijuana at a licensed dispensary or marijuana recreational facilities unless: (1)The consumption is conducted for testing in compliance with OAR 333-008-1190; or (2) The consumption is allowed under the medical exception granted in OAR 333-008-1200.
- d. Co-location of medical marijuana dispensaries at grow sites.
- e. Marijuana businesses in residential zones or designations.
- f. Retail medical marijuana dispensaries or marijuana recreational facilities in industrial zones.
- g. Marijuana businesses as a home occupation in any zone.
- h. Marijuana businesses as a Neighborhood Commercial use.

11. Compliance and Enforcement.

- a. Any premise, house, building, structure or place of any kind where marijuana is sold, manufactures, barter, distributed in violation of state law or this ordinance is a public nuisance. The City may institute an action in Deschutes County in the name of the City to temporarily or permanently enjoin such nuisance.
- b. This remedy is in addition to, and not in lieu of, any other civil, criminal or administrative remedies available to the City authorized under this code, or by law or equity.

Exhibit B

**STAFF REPORT TO THE
BEND PLANNING COMMISSION
FOR DEVELOPMENT CODE TEXT AMENDMENT**



**PROJECT
NUMBER:** 15-0836

CITY OF BEND

HEARING DATE: Monday, November 9, 2015
City Council Chambers
710 NW Wall Street
Bend, OR 97701

APPLICANT: City of Bend
710 NW Wall Street
Bend, OR 97701

REQUEST: Consider a proposal to amend the text of Chapters 1.2, 2.2, 2.3, 2.4, and 3.6 of the Bend Development Code.

STAFF: Pauline Hardie, AICP, Senior Code Planner

I. APPLICABLE CRITERIA:

- (1) The Bend Area General Plan
- (2) Bend Code Chapter 10, City of Bend Development Code

- (a) Chapter 4.6, Land Use District Map and Text Amendments; Section 4.6.200(B), Criteria for Legislative Amendments

II. APPLICABLE PROCEDURES:

- (1) Bend Code Chapter 10, City of Bend Development Code
 - (a) Chapter 4.1, Land Use Review and Procedures

III. PROCEDURAL FINDINGS:

1. **PLANNING COMMISSION REVIEW:** The matter before the Planning Commission is the review of a package of amendments to the text of Chapters 1.2, 2.2, 2.3, 2.4 and 3.6 of the City of Bend Development Code which are intended to add definitions and regulations for marijuana businesses.

The recommended text amendments are attached as Attachment A.

2. PUBLIC NOTICE AND COMMENTS:

On October 16, 2015, the City of Bend sent a postcard to 3,461 property owners within the commercial, mixed-use and industrial zoning districts to notify individuals of the Planning Commission's public hearing on November 9, 2015. A notice of the public hearing was also printed in the Bend Bulletin on October 18, 2015 and sent to the neighborhood associations on October 14, 2015. As of the writing of this report, the City received written comments from eight individuals, including one member of the MTAC, and received seven inquiries from those who received a notice. In addition, members of the MTAC submitted materials for the MTAC's review.

3. BACKGROUND:

At the August 19, 2015 City Council meeting, Council directed staff to move forward with a committee consisting of interested and knowledgeable stakeholders to help develop reasonable time, place and manner regulations for marijuana businesses. On September 16, 2015, the City Council adopted Resolution 3006 establishing a Marijuana Technical Advisory Committee (MTAC) comprised of nine voting members and a Planning Commissioner, Joan Vinci, as a non-voting member.

The MTAC met on September 17, 2015, October 1, 2015, October 15, 2015 and October 29, 2015 to discuss and draft the proposed amendments.

IV. FINDINGS REGARDING COMPLIANCE WITH APPLICABLE CRITERIA:

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE, CHAPTER 4.6, LAND USE DISTRICT MAP AND TEXT AMENDMENTS

4.6.200 Legislative Amendments.

A. Applicability, Procedure and Authority. Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plan and map, Development Code and changes in the zoning map not directed at a small number of properties. They are reviewed using the Type IV procedure in accordance with Chapter 4.1, Land Use Review and Procedures and shall conform to Section 4.6.600, Transportation Planning Rule Compliance. A Legislative Amendment may be approved or denied.

FINDING: The recommended amendments to the text of the Development Code involve broad public policy rather than an individual property owner. Therefore, the Legislative Amendment Procedures of this section are the appropriate procedures for this review.

B. Criteria for Legislative Amendments. The applicant shall submit a written narrative which explains how the approval criteria will be met. A

recommendation or a decision to approve or to deny an application for a Legislative Amendment shall be based on all of the following criteria:

1. The request is consistent with the applicable State land use law;

FINDING: The proposed amendments are consistent with the applicable State land use law. In particular, they satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, and Goal 9: Economic Development.

Goal 1, Citizen Involvement, is satisfied through following the City's acknowledged text amendment process that includes a Planning Commission public hearing, followed by a City Council public hearing. In addition, on September 16, 2015, the City Council adopted Resolution 3006 establishing a Marijuana Technical Advisory Committee (MTAC) to provide input to the Planning Commission and City Council regarding reasonable time, place and manner regulations of marijuana businesses. The MTAC held public work sessions on September 17, 2015, October 1, 2015, October 15, 2015 and October 29, 2015. The creation of the MTAC was an integral component of the community involvement process regarding legal marijuana. The process allowed stakeholders to comment, participate and impact how the City of Bend will regulate a new industry. Public comment was accepted at all MTAC meetings.

Goal 2, Land Use Planning, requires a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. The Goal is met because the City followed the land use planning process and policy framework established in the City's acknowledged Comprehensive Plan (General Plan) and Development Code as a basis for the decisions and actions related to the new regulations regarding the use of land and to assure an adequate factual base for these decisions and actions. The proposed amendments will be adopted by the City Council after a public hearing. Multiple opportunities were provided for review and comment by citizens and affected governmental units during the preparation of this ordinance.

Goal 2 specifically states that minor plan changes such as the marijuana business regulations, should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established. The MTAC was purposefully made up of knowledgeable members of the industry, marijuana law, the Bend LaPine School District, and the community at large. The MTAC held four meetings between September and November of 2015. The MTAC had extensive discussion and debate on various policy recommendations, particularly distance requirements. The MTAC studied several maps with buffers around various uses including schools, child care facilities, libraries, parks and also between marijuana recreational facilities. The proposed amendments include buffers around schools and childcare facilities in order to balance a strong and heartfelt desire to protect the community's youth from drug use while still allowing medical marijuana dispensaries to locate in the City of Bend to serve legitimate medical needs and also to allow marijuana retail to develop their legal businesses for adults.

Goal 9, Economic Development, is implemented through Oregon Administrative Rule (OAR) Division 9 which is intended to ensure that each jurisdiction maintain an adequate land supply for economic development and employment growth. The Goal is satisfied because the proposed amendments establish regulations that are not overly regulatory and allow existing and new marijuana businesses to emerge and grow, thereby diversifying the local economy.

Other Goals: Because the proposed code amendments are limited in scope, there are no other Statewide Planning Goals or Administrative Rules applicable to this amendment. Likewise, there are no applicable Oregon Revised Statutes that are criteria applicable to these amendments (Note, consistency with the Transportation Planning Rule (TPR) is discussed further in this document).

Based on the above discussion, the proposed text amendment to the Development is consistent with the statewide planning goals and therefore complies with the requirement that the amendment be consistent with state land use planning law.

2. The request is consistent with the applicable Bend Area General Plan goals and policies;

FINDING: The “goals” established in the general plan express the desires of the residents of Bend as the City progresses into the future. The “goals” are generally carried out through “policies,” which are statements of public policy. The following Goals and Policies are applicable:

Chapter 1: Plan Management and Citizen Involvement

Goals:

- *Quality Economic Growth — Assure an opportunity for a stable, vital and diverse economy while sustaining its environment/ecological support systems.*

Policies:

- *Policy 15: The city shall continue to use advisory committees in their planning process, members of which are selected by an open process, and who are widely representative of the community.*
- *Policy 16: The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process*

FINDING: At the August 19, 2015 City Council meeting, Council directed staff to move forward with a committee consisting of interested and knowledgeable stakeholders to help develop and refine land use regulations and licensing requirements for marijuana businesses. Staff recruited a 9-person committee that included representatives from the industry, marijuana law, the Bend LaPine School District, and the community at large. The City Council approved the MTAC on

September 16, 2015 during a council meeting. The MTAC met on September 17, 2015, October 1, 2015, October 15, 2015 and October 29, 2015 to discuss and draft the proposed amendments.

The Planning Commission held a work session and public hearing on November 9, 2015 and the City Council will hold a public hearing December 2, 2015 regarding the proposed amendments.

Chapter 6: The Economy and Lands for Economic Growth

Goals

- *Have a vital, diverse and sustainable economy, while enhancing the community's overall livability.*
- *Stimulate economic development that will diversify and strengthen economic activity and provide primary and secondary job opportunities for local residents.*

FINDING: The proposed code amendments include updating the commercial, mixed-use and industrial land use tables to include appropriate marijuana businesses. The amendments also include procedures, development standards, distance requirements, and prohibited uses. As detailed in the map (Attachment D) approved by the MTAC on October 15, 2015, the mapping of the proposed distance requirements indicates that there are somewhat limited areas where potential medical marijuana dispensaries and marijuana recreational facilities can locate; however, it would not create an undue burden. The proposed amendments will still allow marijuana businesses to develop in Bend and provide job opportunities while continuing to enhance the community's overall livability.

Based on the findings stated above, staff concludes that the proposed text amendments are consistent with the applicable General Plan Goals and Policies.

3. The applicant can demonstrate a public need or benefit for the proposed amendment.

FINDING:

The City of Bend recognizes the importance of its unique qualities and diverse economy that supports a mix of uses. The proposed amendments address compatibility concerns raised by members of the public; however, they are not overly regulatory to allow new businesses to emerge and grow, thereby diversifying the local economy. The proposed regulations will give City staff and the general public clear direction regarding what may be permitted, and where.

4.6.500 Record of Amendments.

The City Recorder shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.

FINDING: In the event the Development Code text amendment is adopted by ordinance, the City Recorder will maintain a record of the amendments and the revised provisions will be included as part of the Bend Development Code available to the public on the City's website.

4.6.600 Transportation Planning Rule Compliance.

When a development application includes a proposed comprehensive plan amendment or land use district change, or both, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

FINDING: The new text amends the Bend Development Code, a functional component of the General Plan, and is an amendment to a land use regulation as noted in OAR 660-012-0060. The proposed amendments are not tied to any one development application and do not affect the functional classification of any street. The proposed amendments will have no measurable impacts on the amount of traffic on the existing transportation system; therefore the proposed text amendments do not cause a "significant effect" under ORS 660-012-0060.

V. CONCLUSIONS:

Based on the above Findings, the proposed Development Code text amendment meets all applicable criteria for adoption.

VI. RECOMMENDATION:

The Planning Commission recommends approval of the proposed text amendments to the City Council.

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

filings 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*] **inssofar** 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 off[.]

[(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 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 growsite located outdoors, 12 pounds of usable marijuana per mature marijuana plant; or

(b) For a marijuana growsite 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 maintaining 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)] (4) 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-methylenedioxymethamphetamine;

(ii) 3,4-methylenedioxymethamphetamine; or

(iii) 3,4-methylenedioxymethamphetamine.

(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-methylenedioxymethamphetamine;
 - (II) 3,4-methylenedioxymethamphetamine; or
 - (III) 3,4-methylenedioxym-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-methylenedioxymethamphetamine, 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxym-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-methylenedioxymethamphetamine;

(ii) 3,4-methylenedioxymethamphetamine; or

(iii) 3,4-methylenedioxymethylamphetamine.

(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 reformative 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 reformative 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, 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

Received by Governor:

.....M.,....., 2015

.....
Timothy G. Sekerak, Chief Clerk of House

Approved:

.....M.,....., 2015

.....
Tina Kotek, Speaker of House

.....

Kate Brown, Governor

Passed by Senate June 30, 2015

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Peter Courtney, President of Senate

.....

Jeanne P. Atkins, Secretary of State

**OREGON LIQUOR CONTROL COMMISSION
DIVISION 25
RECREATIONAL MARIJUANA**

GENERAL REQUIREMENTS APPLICABLE TO ALL MARIJUANA LICENSEES

845-025-1000

Applicability

- (1) A person may not produce, process, transport, sell, test, or deliver marijuana for commercial recreational use without a license from the Commission or as otherwise authorized under these rules.
- (2) Nothing in these rules exempts a licensee or licensee representative from complying with any other applicable state or local laws.
- (3) Licensure under these rules does not protect a person from possible criminal prosecution under federal law.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 12, 14, 15, 16, 33, 38 and 93, Chapter 614, Oregon Laws 2015

845-025-1015

Definitions

For the purposes of OAR 845-025-1000 to 845-025-8590, unless otherwise specified the following definitions apply:

- (1) "Adulterated" means to make a marijuana item impure by adding foreign or inferior ingredients or substances. A marijuana item may be considered to be adulterated if:
 - (a) It bears or contains any poisonous or deleterious substance in a quantity rendering the marijuana item injurious to health, including but not limited to tobacco or nicotine;
 - (b) It bears or contains any added poisonous or deleterious substance exceeding a safe tolerance if such tolerance has been established;
 - (c) It consists in whole or in part of any filthy, putrid, or decomposed substance, or otherwise is unfit for human consumption;
 - (d) It is processed, prepared, packaged, or is held under improper time-temperature conditions or under other conditions increasing the probability of contamination with excessive microorganisms or physical contaminants;
 - (e) It is processed, prepared, packaged, or held under insanitary conditions increasing the probability of contamination or cross-contamination;
 - (f) It is held or packaged in containers composed, in whole or in part, of any poisonous or deleterious substance rendering the contents potentially injurious to health;
 - (g) Any substance has been substituted wholly or in part therefor;
 - (h) Damage or inferiority has been concealed in any manner; or
 - (i) Any substance has been added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.
- (2) "Authority" means the Oregon Health Authority.

- (3) "Business day" means Monday through Friday excluding legal holidays.
- (4) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.
- (5) "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; or
 - (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
- (6) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.
- (7) "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.
- (7)(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.
- (8) "Cannabis Tracking System" or "CTS" means the system for tracking the transfer of marijuana items and other information as authorized by section 23, chapter 614, Oregon Laws 2015.
- (9) "Compliance transaction" means a single covert, on-site visit in which a Commission authorized representative poses as an authorized representative of a licensee or a consumer and attempts to purchase or purchases a marijuana item from a licensee, or attempts to sell or sells a marijuana item to a licensee.
- (10) "Container" means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed prior to being sold to a consumer.
- (11) "Commission" means the Oregon Liquor Control Commission.
- (12) "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.
- (13) "Date of Harvest" means the date the mature marijuana plants in a harvest lot were cut, picked or removed from the soil or other growing media. If the harvest occurred on more than one day, the "date of harvest" is the day the last mature marijuana plant in the harvest lot was cut, picked or removed from the soil or other growing media.
- (14) "Financial consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.

(15) "Financial interest" means having an interest in the business such that the performance of the business causes, or is capable of causing, an individual or a legal entity with which the individual is affiliated, to benefit or suffer financially, and such interests include but are not limited to:

- (a) Receiving, as an employee or agent, out-of-the-ordinary compensation, either in the form of over-compensation or under compensation;
- (b) Lending money, real property or personal property to an applicant or licensee for use in the business at a commercially unreasonable rate;
- (c) Giving money, real property or personal property to an applicant or licensee for use in the business; or
- (d) Being the spouse or domestic partner of an applicant or licensee. For purposes of this subsection, "domestic partners" includes adults who qualify for a "domestic partnership" as defined under ORS 106.310.

(16) "Harvest lot" means marijuana that is uniform in strain, cultivated utilizing the same growing practices and harvested at the same time.

(17) "Immature marijuana plant" means a marijuana plant that is not flowering.

(18) "Intended for human consumption" means intended for a human to eat, drink, or otherwise put in the mouth but does not mean intended for human inhalation.

(19) "Laboratory" means a laboratory certified by the Authority under ORS 438.605 to 438.620 and authorized to test marijuana items for purposes specified in these rules.

(20) "Licensee" means any person who holds a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(21) "License holder" includes:

- (a) Each applicant listed on an application that the commission has approved;
- (b) Each individual who meets the qualification described in OAR 845-025-1045 and who the commission has added to the license under OAR 845-025-1030; or
- (c) Each individual who has a financial interest in the licensed business and who the commission has added to the license under OAR 845-025-1030.

(22) "Licensee representative" means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity.

(23) "Limited access area" means a building, room, or other contiguous area on a licensed premises where a marijuana item is produced, processed, stored, weighed, packaged, labeled, or sold, but does not include a point of sale area on a licensed retailer premises.

(24)(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.

(25) "Marijuana flowers" means the flowers of the plant genus Cannabis within the plant family Cannabaceae.

(26) "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(27) "Marijuana leaves" means the leaves of the plant genus Cannabis within the plant family Cannabaceae.

(28) "Marijuana processor" means a person who processes marijuana items in this state.

(29) "Marijuana producer" means a person who produces marijuana in this state.

(30) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.

(31) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer.

(32) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.

(33) "Minor" means any person under 21 years of age.

(34) "Non-Toxic" means not causing illness, disability or death to persons who are exposed.

(35) "Permittee" means any person who holds a Marijuana Handlers Permit.

(36) "Person" has the meaning given that term in ORS 174.100.

(37) "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) 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;
- (B) All areas outside a building that the commission has specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and
- (C) For a location that the commission has specifically licensed for the production of marijuana outside 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.

(38) "Primary Residence" means real property inhabited for the majority of a calendar year by an owner, renter or tenant, including manufactured homes and vehicles used as domiciles.

(39)(a) "Processor" means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts;

(b) "Processes" does not include packaging or labeling.

(40) "Process lot" means:

- (a) Any amount of cannabinoid concentrate or extract of the same type and processed at the same time using the same extraction methods, standard operating procedures and batches from the same harvest lot; or
- (b) Any amount of cannabinoid products of the same type and processed at the same time using the same ingredients, standard operating procedures and batches from the same harvest lot or process lots of cannabinoid concentrate or extract.

(41) "Producer" means a marijuana producer licensed by the Commission.

(42)(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.

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

(44) "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 areas used in connection with public passenger transportation.

(45) "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 chapter 471, ORS 474.005 to 474.095 and 474.115, commission rules and any other statutes the commission considers related to regulating liquor or marijuana.

(46) "Retailer" means a marijuana retailer licensed by the Commission.

(47) "Safe" means:

(a) A metal receptacle with a locking mechanism capable of storing all marijuana items on a licensed premises that:

(A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or

(B) Weighs more than 750 pounds.

(b) A "vault"; or

(c) A refrigerator or freezer capable of being locked for storing marijuana items that require cold storage that:

(A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or

(B) Weighs more than 750 pounds.

(48) "Shipping Container" means any container or wrapping used solely for the transport of a marijuana items in bulk to a marijuana licensee as permitted in these rules.

(49) "These rules" means OAR 845-025-1000 to 845-025-8590.

(50) "UID" means unique identification.

(51)(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.

(52) "Vault" means an enclosed area or room that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.

(53) "Wholesaler" means a marijuana wholesaler licensed by the Commission.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 5, Chapter 614, Oregon Laws 2015

845-025-1030

Application Process

(1) On or after 8:30 a.m. Pacific Time January 4, 2016, a person may submit an application to the Commission, on a form prescribed by the Commission, for a marijuana producer, processor, wholesaler, retail, or laboratory license.

(2) An application for a license and all documentation required in the application instructions and in section (4) of this rule must be submitted electronically, via the Commission's website. The application fee specified in OAR 845-025-1060 must also be paid through the Commission's on-line payment system at the time of application.

(3) An application must include the names and other required information for all individuals who are applicants as described in OAR 845-025-1045 and who are not applicants but who have a "financial interest" in the business, as defined in OAR 845-025-1015.

(4) In addition to submitting the application form the following must be submitted:

(a) For an individual listed as an applicant:

(A) Information or fingerprints for a criminal background check in accordance with OAR 845-025-1080;

(B) An Individual History Form and any information identified in the form that is required to be submitted; and

(C) Proof of residency documented by providing:

(i) Oregon full-year resident tax returns for the last two years; or

(ii) Utility bills, rental receipts, mortgage statements or similar documents that contain the name and address of the applicant dated at least two years prior to the date of application and from the most recent month.

(b) For an individual listed as a person with a financial interest:

(A) Information or fingerprints for a criminal background check in accordance with OAR 845-025-1080;

(B) An Individual History Form and any information identified in the form that is required to be submitted; and

(c) A map or sketch of the premises proposed for licensure, including the defined boundaries of the premises and the location of any primary residence located on the same tax lot or parcel as the licensed premises;

(d) A floor or plot plan sketch of all enclosed areas with clear identification of walls, partitions, counters, windows, all areas of ingress and egress, and all limited access areas;

(e) Proof of lawful possession of the premises proposed for licensure;

(f) An operating plan that demonstrates at a minimum, how the applicant's proposed premises and business will comply with the applicable laws and rules regarding:

(A) Security;

(B) Employee qualifications and training;

(C) Transportation of product;

(D) Preventing minors from entering the licensed premises; and

(E) Preventing minors from obtaining or attempting to obtain marijuana items.

(g) For producers:

(A) The proposed canopy size and tier as described in OAR 845-025-2040 and a designation of the canopy area within the license premises.

(B) A report describing the applicant's electrical and water usage, on a form prescribed by the Commission. The report must describe the estimated water usage taking into account all portions of the premises and expected requirements of the operation.

(C) A description of the growing operation including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor or both.

(D) A water right permit or certificate number; a statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right.

(h) For processors:

(A) On a form prescribed by the Commission, the proposed endorsements as described in OAR 845-025-3210.

(B) A description of the type of products to be processed, a description of equipment to be used, including any solvents, gases, chemicals or other compounds used to create extracts or concentrates.

(5) The Commission must review an application to determine if it is complete. An application will be considered incomplete if an application form is not complete, the full application fee has not been paid, or some or all of the additional information required under section (4) of this rule is not submitted.

(6) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within ten days of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the 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 183.310 to 183.550.

(7) If, prior to an application being acted upon by the commission, there is a change with regard to who is an applicant or who is a person with a financial interest in the proposed business, the new applicant or person with a financial interest must submit a form, prescribed by the commission, that:

(a) Identifies the individual or person;

(b) Describes the individual's or person's financial interest in the business proposed for licensure; and

(c) Includes any additional information required by the commission, including but not limited to information and fingerprints required for a criminal background check.

(8) Failure to comply with subsection (6) of this rule may result in an application being denied.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 7, 8, 11 and 12, Chapter 614, Oregon Laws 2015

845-025-1045

Qualifications of an Applicant

(1) The following are considered applicants for purposes of these rules:

(a) Any individual that has a financial interest in the business for which licensure is sought and who is directly involved in controlling the ordinary course of business for the business that is proposed to be licensed; and

(b) Any legal entity that has a financial interest in the business for which licensure is sought and is directly involved in controlling the ordinary course of business for the business that is proposed to be licensed;

(2) If an applicant is an individual the individual must also:

(a) Be at least 21 years of age; and

(b) Until January 1, 2020, have been a resident of Oregon for at least two consecutive years prior to the date the initial or renewal application was submitted.

(3) If a legal entity is designated as an applicant, the following individuals must also be listed as applicants on an application:

- (a) All partners in a limited partnership;
- (b) All members of a limited liability company; and
- (c) All directors and principal officers of a corporate entity.

(4) At least one applicant or the sum of applicants listed on a license application must be a legitimate owner of the business proposed to be licensed or subject to renewal.

(5) An individual or legal entity will not be considered by the Commission to be directly involved in the ordinary course of business for the business proposed to be licensed solely by virtue of:

- (a) Being a shareholder, director, member or limited partner;
- (b) Being an employee or independent contractor;
- (c) Participating in matters that are not in the ordinary course of business such as amending organizational documents of the business entity, making distributions, changing the entity's corporate structure, or approving transactions outside of the ordinary course of business as specified in the entity's organizational documents.

(6) An individual applicant or applicant legal entity will be considered by the Commission to be a legitimate owner of the business if:

- (a) The individual applicant or legal entity applicant owns at least 51% of the business proposed to be licensed; or
- (b) One or more individual applicants or applicant legal entities in sum own at least 51% of the business proposed to be licensed.

(7) The following factors, in and of themselves, do not constitute ownership:

- (a) Preferential rights to distributions based on return of capital contribution;
- (b) Options to purchase an ownership interest that may be exercised in the future;
- (c) Convertible promissory notes; or
- (d) Security interests in an ownership interest.

(8) For purposes of this rule "ownership" means direct or indirect ownership of the shares, membership interests, or other ownership interests of the business proposed to be licensed.

(9) The Commission may consider factors other than those listed in this rule when determining whether an individual or legal entity is directly involved in the operation or management of the business proposed to be licensed or licensed, or is a legitimate owner.

(10) An individual listed as an applicant on an initial or renewal application, or identified by the commission as an applicant must maintain Oregon residency while the business is licensed.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 8, 12, 14, 15, and 16, Chapter 614, Oregon Laws 2015

845-025-1060**Fees**

(1) At the time of initial license or certificate application an applicant must pay a \$250 non-refundable application fee.

(2) If the commission approves an application and grants an annual license, the following fees must be paid, prorated for an initial license that is issued for six months or less:

(a) Producers:

- (A) Tier I \$3750
- (B) Tier II \$5750

(b) Processors: \$4750

(c) Wholesalers: \$4750

(d) Retailers: \$4750

(e) Laboratories: \$4750

(3) At the time of license or certificate application renewal an applicant must pay a \$250 non-refundable application fee. If the commission approves an application and grants a research certificate, the fee shall be \$4750 for a three year term.

(4) If the commission approves a renewal application the renewal license or certificate fees must be paid in the amounts specified in subsection (2) of this rule.

(5) If the commission approves an initial or renewal application and grants a marijuana handler permit the individual must pay a \$100 permit fee.

(6) The Commission shall charge the following fees:

(a) Criminal background checks: \$50 per individual (if the background check is not part of an initial or renewal application)

(b) Change of ownership review: \$1000 per license

(c) Change in business structure review: \$1000 per license

(d) Transfer of location of premises review: \$1000 per license

(e) Packaging preapproval: \$100

(f) Labeling preapproval: \$100

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 2, 12, 14, 15, 16, 20, 93, 102 and 104, Chapter 614, Oregon Laws 2015

845-025-1070**Late Renewal Fees**

(1) If the Commission receives a completed license, permit or certificate renewal application less than 20 days before the date the existing license, permit or certificate expires, the Commission will charge a late renewal fee of \$150 for licenses and certificates and \$50 for marijuana handler permits.

(2) If the Commission receives a completed license, permit or certificate renewal application within 30 days after the date the existing license, permit or certificate expires, the Commission will charge a late renewal fee equal to \$300 for licenses and certificates and \$100 for marijuana handler permits.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 2, Chapter 614, Oregon Laws 2015

845-025-1080
Criminal Background Checks

(1) If an individual is required by the Commission to undergo a criminal background check, the individual must provide to the Commission:

(a) A criminal background check request form, prescribed by the Commission that includes but is not limited to:

(A) First, middle and last name;

(B) Any aliases;

(C) Date of birth;

(D) Driver's license information; and

(E) Address and recent residency information.

(b) Fingerprints in accordance with the instructions on the Commission's webpage.

(2) The Commission may request that an applicant disclose his or her Social Security Number if notice is provided that:

(a) Indicates the disclosure of the Social Security Number is voluntary; and

(b) That the Commission requests the Social Security Number solely for the purpose of positively identifying the applicant during the criminal records check process.

(3) An applicant's criminal history must be evaluated by the Commission in accordance with ORS 670.280 and section 29(2) and (3), chapter 1, Oregon Laws 2015.

(4) The Commission may conduct a criminal background checks in accordance with this rule every year at the time of application renewal.

(5) Records concerning criminal background checks must be kept and handled by the Commission in accordance with ORS 181.534(15).

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 10, Chapter 614, Oregon Laws 2015

845-025-1090
Application Review

(1) Once the Commission has determined that an application is complete it must review the application to determine compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and these rules.

(2) The Commission:

(a) Must, prior to acting on an application, request a land use compatibility statement from the city or county that authorizes land use in the city or county in which the applicant's proposed premises is located or request verification that a land use compatibility statement submitted by an applicant is valid and accurate

(b) May, in its discretion, prior to acting on an application:

(a) Contact any applicant or individual with a financial interest and request additional documentation or information; and

(b) Verify any information submitted by the applicant.

- (3) The Commission must inspect the proposed premises prior to issuing a license.
- (4) If, during an inspection the Commission determines the applicant is not in compliance with these rules, the applicant will be provided with a notice of the failed inspection and the requirements that have not been met.
 - (a) An applicant that fails an inspection will have 15 calendar days from the date the notice was sent to submit a written response that demonstrates the deficiencies have been corrected.
 - (b) An applicant may request in writing one extension of the 15 day time limit in subsection (a) of this section, not to exceed 30 days.
- (5) If an applicant does not submit a timely plan of correction or if the plan of correction does not correct the deficiencies in a manner that would bring the applicant into compliance, the Commission may deny the application.
- (6) If the plan of correction appears, on its face, to correct the deficiencies, the Commission will schedule another inspection.
- (7) If an applicant fails a second inspection the Commission may deny the application unless the applicant shows good cause for the Commission to perform additional inspections.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 8, 30 and 34, Chapter 614, Oregon Laws 2015

845-025-1100

Approval of Application and Issuance of License

- (1) If, after the application review and inspection the Commission determines that an applicant is in compliance with section 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and these rules the Commission must notify the applicant in writing that the application has been approved and after payment by the applicant of the license fee, provide the applicant with proof of licensure that includes a unique license number, the effective date of the license, date of expiration, and a description of premises for which the license was issued.
- (2) A licensee:
 - (a) May not operate until on or after the effective date of the license.
 - (b) Must display proof of licensure in a prominent place on the premises.
 - (c) May not use the Commission name or logo on any signs at the premises, on the business' website, or in any advertising or social media, except to the extent that information is contained on the proof of licensure.
- (3) Licensure is only valid for the premises indicated on the license and is only issued to the individuals or entities listed on the application or subsequently approved by the Commission.
- (4) A license may not be transferred except as provided in OAR 845-025-1160.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 5, Chapter 614, Oregon Laws 2015

Denial of Application

(1) The Commission must deny an initial or renewal application if:

- (a) An applicant is under the age of 21 or until January 1, 2020, has not been a resident or Oregon for at least two years. If the Commission determines that an applicant is a non-resident the Commission will hold that application under review until 30 days after the 2016 Oregon Legislature adjourns.
- (b) The applicant's land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
- (c) The proposed licensed premises is located:
 - (A) On federal property.
 - (B) At the same physical location or address as a:
 - (i) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon laws 2015;
 - (ii) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or
 - (iii) Medical marijuana dispensary registered under ORS 475.314.
 - (C) At the same physical location or address as a liquor licensee licensed under ORS Chapter 471 or as a retail liquor agent appointed by the Commission.
- (d) The proposed licensed premises of a producer applicant is:
 - (A) On public land; or
 - (B) On the same tax lot or parcel as another producer licensee under common ownership.
- (e) The proposed licensed premises of a processor who has applied for an endorsement to process extracts is located in an area that is zoned exclusively for residential use.
- (f) The proposed licensed premises of a retail applicant is located:
 - (A) Within 1,000 feet of:
 - (i) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
 - (ii) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.
 - (B) In an area that is zoned exclusively for residential use.
- (g) The proposed licensed premises of a wholesaler applicant is in an area zoned exclusively for residential use.
- (h) A city or county has prohibited the license type for which the applicant is applying, in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015.

(2) The Commission may deny an initial or renewal application, unless the applicant shows good cause to overcome the denial criteria, if it has reasonable cause to believe that:

- (a) The applicant:
 - (A) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana, or controlled substances to excess.
 - (B) Has made false statements to the commission.
 - (C) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.
 - (D) Is not of good repute and moral character.

(E) Does not have a good record of compliance with sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules, prior to or after licensure including but not limited to:

- (i) The giving away of marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind, in violation of section 49, chapter 614, Oregon Laws 2015;
- (ii) Providing marijuana items to an individual without checking that the individual is 21 or older;
- (iii) Unlicensed transfer of marijuana items for financial consideration; or
- (iv) Violations of local ordinances adopted under section 33, chapter 614, Oregon Laws 2015, pending or adjudicated by the local government that adopted the ordinance.

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

(G) Is unable to understand the laws of this state relating to marijuana or these rules, including but not limited to ORS 475.300 to 475.346 and sections 91 to 99, chapter 614, Oregon Laws 2015. Inability to understand laws and rules of this state related to marijuana may be demonstrated by violations documented by the Oregon Health Authority.

(b) That any individual listed on the application 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, except as specified in Section 29(3), chapter 1, Oregon Laws 2015.

(c) Any applicant is not the legitimate owner of the business proposed to be licensed, or other persons have an ownership interest in the business have not been disclosed to the commission.

(3) The commission may refuse to issue a license to any license applicant or refuse to renew the license of any licensee, when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for revocation or suspension of a license if such person were the license applicant or licensee. However, in cases where the financial interest is held by a corporation, only the officers and directors of the corporation, any individual or combination of individuals who own a controlling financial interest in the business shall be considered persons having a financial interest within the meaning of this subsection.

(4) The Commission will not deny an application under subsections (1)(c)(B) of this rule if the applicant surrenders the registration issued by the Authority prior to being issued an OLCC license.

(5) If the Commission denies an application because an applicant submitted false or misleading information to the Commission, the Commission may prohibit the applicant from re-applying for 5 years.

(6) A notice of denial must be issued in accordance with ORS 183.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 7, 8, 12, 14, 15, 16, 34, 133 and 134, Chapter 614, Oregon Laws 2015

845-025-1130**Withdrawal of Application**

An applicant may withdraw an initial or renewal application at any time prior to the Commission acting on the application unless the Commission has determined that the applicant submitted false or misleading information in which case the Commission may refuse to accept the withdrawal and may issue a notice of proposed denial in accordance with OAR 845-025-1115.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 8, Chapter 614, Oregon Laws 2015

845-025-1145**Communication With Commission**

(1) If an applicant or licensee is required to or elects to submit anything in writing to the Commission, unless there is a more specific rule that states otherwise, the applicant or licensee may submit the writing to the Commission via:

- (a) Mail;
- (b) In-person delivery;
- (c) Facsimile; or
- (d) E-mail.

(2) If a written notification must be submitted by a particular deadline it must be received, regardless of the method used to submit the writing, by 5:00 p.m. Pacific Time.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 2, Chapter 614, Oregon Laws 2015

845-025-1160**Notification of Changes**

(1) An applicant or licensee must notify the Commission in writing within 10 calendar days of any of the following:

- (a) A change in any contact information for anyone listed in an application or subsequently identified as an applicant or an individual with a financial interest;
- (b) The Arrest or conviction for any misdemeanor or felony of an individual listed in an application or subsequently identified as an applicant, licensee or individual with a financial interest
- (c) A disciplinary proceeding or licensing enforcement action by another governmental entity that may affect the licensee's business;
- (d) The filing of bankruptcy;
- (e) The closure of bank accounts or credit cards by a financial institution;
- (f) The temporary closure of the business for longer than 30 days; or
- (g) The permanent closure of the business.

(2) A licensee must notify the Commission as soon as reasonably practical and in no case more than 24 hours from the theft of marijuana items or money from the licensed premises.

(3) Changes in Financial Interest or Business Structure. A licensee that proposes to change its corporate structure, ownership structure or change who has a financial interest in the business must submit a form prescribed by the Commission, and any information identified in the form to be submitted, to the Commission, prior to making such a change.

(a) The Commission must review the form and other information submitted under subsection (1) of this rule, and will approve the change if the change would not result in an initial or renewal application denial under OAR 845-025-1115, or serve as the basis of a license suspension or revocation.

(b) If the Commission denies the change but the licensee proceeds with the change the licensee must surrender the license or the Commission will propose to suspend or cancel the license.

(c) The Commission will not accept a form for a change in corporate structure or financial interest if the license is expiring in less than 90 days or if the licensee is under investigation by the Commission or has been issued a Notice by the Commission following an alleged violation and the alleged violation has not been resolved.

(d) If a licensee has a change in ownership that is 51% or greater, a new application must be submitted in accordance with OAR 845-025-1030.

(4) Change of Location. A licensee who wishes to change the location of the licensed premises must submit an application form and the fee specified in OAR 845-025-1060 but does not need to submit information and fingerprints required for a criminal background check, or individual history forms if there are no changes to the individuals listed on the initial application.

(a) A licensee must submit an operating plan as described in OAR 845-025-1030 if the business operations will change at the proposed new location.

(b) The commission must approve any change of location prior to licensee beginning business operations in the new location.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 5 and 8, Chapter 614, Oregon Laws 2015

845-025-1175

Changing, Altering, or Modifying Licensed Premises

(1) A licensee may not make any physical changes to the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the plans originally approved by the Commission, without the Commission's prior written approval.

(2) A licensee who intends to make any material or substantial changes to the licensed premises must submit a form prescribed by the Commission, and submit any information identified in the form to be submitted, to the Commission, prior to making any such changes.

(3) The Commission must review the form and other information submitted under subsection (2) of this rule, and will approve the changes if the changes would not result in an initial or renewal application denial under OAR 845-025-1115.

(4) If the Commission denies the change the licensee must not make the proposed changes. If the licensee makes the proposed changes, the licensee must surrender the license or the Commission will propose to suspend or cancel the license.

(5) For purposes of this rule a material or substantial change requiring approval includes, but is not limited to:

- (a) Any increase or decrease in the total physical size or capacity of the licensed premises;
- (b) The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress or egress, when such common entryway, doorway or passage alters or changes limited access areas, such as the areas in which cultivation, harvesting, processing, or sale of marijuana items occurs within the licensed premises; or
- (c) Any physical change that would require the installation of additional video surveillance cameras or a change in the security system.
- (d) Any addition or change of location of a primary residence located on the same tax lot or parcel as a licensed premises.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015

845-025-1190

License Renewal

(1) Renewal Applications:

(a) Any licensee who files a completed renewal application with the Commission at least 20 days before the date the license expires may continue to operate as if the license were renewed, pending a decision by the Commission;

(b) Any licensee who does not file a completed renewal application at least 20 days before the existing license expires must stop engaging in any licensed activity when the license expires. However:

(A) If the Commission receives a completed license renewal application less than 20 days before the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee in OAR 845-025-1070, issue a letter of authority to operate beyond the expiration of the license, pending a decision by the Commission;

(B) A licensee must not engage in any licensed activity after the license expires. If the Commission receives a completed license renewal application within 30 days after the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee in OAR 845-025-1070, issue a letter of authority to resume operation, pending a decision by the Commission.

(c) The Commission will not renew a license if the Commission receives the renewal application more than 30 days after the license expires. A person who wants to resume licensed activity in this circumstance:

(A) Must submit a completed new application, including the documents and information required by the Commission.

(B) Must not engage in any licensed activity unless and until they receive authority to operate from the Commission after submitting the completed new application.

(d) A person relicensed under section (1)(c) of this rule who engaged in any activity that would require a license while not licensed, in violation of section (1)(b)(B) of this rule, may be subject to administrative and criminal sanctions.

(e) A person who engages in any activity that requires a license but is not licensed may be subject to criminal prosecution.

(f) For purposes of this rule, a completed application:

- (A) Is considered filed when received by the Commission; and
- (B) Is one that is completely filled out, is signed by all applicants and includes the appropriate fee.

Stat. Auth.: Sections 2, 12, 14, 15, 16 and 93, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 7, Chapter 614, Oregon Laws 2015

845-025-1200

Financial and Business Records

In addition to any other record keeping requirements in these rules a marijuana licensee must have and maintain records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained for a three-year period and must be made available for inspection if requested by an employee of the Commission:

- (1) Purchase invoices and supporting documents for items and services purchased for use in the production, processing, research, testing and sale of marijuana items that include from whom the items were purchased, and the date of purchase.
- (2) Bank statements for any accounts relating to the licensed business;
- (3) Accounting and tax records related to the licensed business.
- (4) Documentation of all financial transactions related to the licensed business, including contracts and agreements for services performed or received that relate to the licensed business.
- (5) All employee records, including training.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Section 46, Chapter 614, Oregon Laws 2015.

845-025-1215

Standardized Scales

A licensee must use an Oregon Department of Agriculture licensed weighing device of appropriate size and capacity as defined in ORS Chapter 618 and OAR 603, Division 27:

- (1) Whenever marijuana items are bought and sold by weight;
- (2) Whenever marijuana items are packaged for sale by weight; and
- (3) Whenever marijuana items are weighed for entry into CTS.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

845-025-1230

Licensed Premises Restrictions and Requirements

(1) A licensed premises may not be located:

(a) On federal property.

(b) At the same physical location or address as a:

(A) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon laws 2015;

(B) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or

(C) Medical marijuana dispensary registered under ORS 475.314.

(D) Liquor licensee licensed under ORS Chapter 471 or as a retail liquor agent appointed by the Commission.

(2) The licensed premises of a producer applicant may not be on:

(a) Public land.

(b) The same tax lot or parcel as another producer licensee under common ownership.

(3) The licensed premises of a retailer may not be located:

(a) 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.

(b) In an area that is zoned exclusively for residential use.

(c) The licensed premises of a processor who has an endorsement to process extracts may not be located in an area that is zoned exclusively for residential use.

(4) The licensed premises of a processor, wholesaler, laboratory and retailer must be enclosed on all sides by permanent walls and doors.

(5) A licensee may not permit:

(a) Any minor on a licensed premises except as described in section (6) and (7) of this rule;

(b) On-site consumption of a marijuana item, alcohol, or other intoxicant by any individual, except that an employee who has a current registry identification card issued under ORS 475.309 may consume marijuana during his or her work shift on the licensed premises as necessary for his or her medical condition, if the employee is alone, in a closed room and not visible to others outside the room. An employee who consumes a marijuana item as permitted under this subsection may not be intoxicated while on duty.

(6) Notwithstanding section (5)(a) of this rule, a minor, other than a licensee's employee, who has a legitimate business purpose for being on the licensed premises, may be on the premises for a limited period of time in order to accomplish the legitimate business purpose. For example, a minor plumber may be on the premises in order to make a repair.

(7) Notwithstanding section (5)(a) of this rule, a minor who resides on the tax lot or parcel where a marijuana producer is licensed may be present on those portions of a producer's licensed that do not contain usable marijuana or cut and drying marijuana plants.

(8) A licensee must clearly identify all limited access areas in accordance with OAR 845-025-1245.

(9) A licensee must keep a daily log of all employees, contractors and license representatives who perform work on the licensed premises. All employees, contractors and licensee

representatives must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee, contractor or licensee representative.

(10) The general public is not permitted in limited access areas on a licensed premises, except for the licensed premises of a retailer and as provided by section (13) of this rule. In addition to licensee representatives, the following individuals are permitted to be present in limited access areas on a licensed premises, subject to the requirements in section (11) of this rule:

- (a) Laboratory personnel, if the laboratory is licensed by the Commission;
- (b) A contractor, vendor or service provider authorized by a licensee representative to be on the licensed premises;
- (c) Another licensee or that licensee's representative;
- (d) Up to seven invited guests per week subject to requirements of section (11) of this rule; or
- (e) Tour groups as permitted under section (13) of this rule.

(11) Prior to entering a licensed premises all visitors permitted by section (10) of this rule must be documented and issued a visitor identification badge from a licensee representative that must remain visible while on the licensed premises. A visitor badge is not required for government officials. All visitors described in subsection (10) of this rule must be accompanied by a licensee representative at all times.

(12) A licensee must maintain a log of all visitor activity. The log must contain the first and last name and date of birth of every visitor and the date they visited.

(13) A marijuana producer or research certificate holder may offer tours of the licensed premises, including limited access areas, to the general public if the licensee submits a control plan in writing and the plan is approved by the Commission.

(a) The plan must describe how conduct of the individuals on the tour will be monitored, how access to usable marijuana will be limited, and what steps the licensee will take to ensure that no minors are permitted on the licensed premises.

(b) The Commission may withdraw approval of the control plan if the Commission finds there is poor compliance with the plan. Poor compliance may be indicated by, for example, individuals on the tour not being adequately supervised, an individual on the tour obtaining a marijuana item while on the tour, a minor being part of a tour, or the tours creating a public nuisance.

(14) Nothing in this rule is intended to prevent or prohibit Commission employees or contractors, or other state or local government officials that have jurisdiction over some aspect of the licensed premises or licensee from being on the licensed premises.

(15) A licensee may not sublet any portion of a licensed premises.

(16) 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 commission.

(17) A licensed wholesaler or retailer who sells or handles food, as that term is defined in ORS 616.695, or cannabinoid edibles must also be licensed by the Oregon Department of Agriculture under ORS 616.706.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 52 and 54, Chapter 1, Oregon Laws 2015;

Sections 14, 15, 16, 25 and 35, Chapter 614, Oregon Law 2015.

845-025-1245

Signage

(1) A licensee must post:

(a) At every licensed premises signs that read:

- (A) "No Minors Permitted Anywhere on This Premises"; and
- (B) "No On-Site Consumption of Marijuana"; and

(b) At all areas of ingress or egress to a limited access area a sign that reads: "Do Not Enter – Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors."

(2) All signs required by this rule must be:

- (a) Legible, not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height;
- (b) In English and Spanish; and
- (c) Posted in a conspicuous location where the signs can be easily read by individuals on the licensee's premises.

Stat. Auth.: 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Section 25, Chapter 614, Oregon Laws 2015.

845-025-1260

Standards for Authority to Operate a Licensed Business as a Trustee, a Receiver, a Personal Representative or a Secured Party

(1) The Commission may issue a temporary authority to operate a licensed business to a trustee, the receiver of an insolvent or bankrupt licensed business, the personal representative of a deceased licensee, or a person holding a security interest in the business for a reasonable period of time to allow orderly disposition of the business.

(a) The trustee, receiver or personal representative must provide the Commission with the following information:

(A) Proof that the person is the legal trustee, receiver or personal representative for the business; and

(B) A written request for authority to operate as a trustee, receiver or personal representative, listing the address and telephone number of the trustee, receiver or personal representative.

(b) The secured party must provide the Commission with the following information:

(A) Proof of a security interest in the licensed business;

(B) Proof of the licensee's default on the secured debt;

(C) Proof of legal access to the real property; and

(D) A written request for authority to operate as a secured party listing the secured party's address and telephone number.

(2) The Commission may cancel or refuse to issue or extend authority for the trustee, receiver, personal representative, or secured party to operate:

(a) If the trustee, receiver, personal representative or secured party does not propose to operate the business immediately or does not begin to operate the business immediately upon receiving the temporary authority;

(b) For any of the reasons that the Commission may cancel or refuse to issue or renew a license;

- (c) If the trustee, receiver, personal representative or secured party operates the business in violation of chapters 1 and 614, Oregon Laws 2015, or these rules; or
- (d) If a reasonable time for disposition of the business has elapsed.

(3) No person or entity described in section (1) of this rule may operate the business until a certificate of authority has been issued under this rule, except that the personal representative of a deceased licensee may operate the business for up to 10 days after the death provided that the personal representative submits the information required in section (1)(a) of this rule and obtains a certificate of authority within that time period.

(4) A certificate of authority under this rule is initially issued for a 60-day period and may be extended as reasonably necessary to allow for the disposition of the business.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Section 25, Chapter 614, Oregon Laws 2015.

845-025-1275 **Closure of Business**

- (1) A license expires upon death of a licensee unless the Commission issues an order as described in subsection (2) of this rule.
- (2) The Commission may issue an order providing for the manner and condition under which:
 - (a) Marijuana items left by a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed.
 - (b) The business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.
- (3) 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.
- (4) If a license is canceled the Commission must address in its order the manner and condition under which marijuana items held by the licensee may be transferred or sold.
- (5) If a license is surrendered or expires the Commission may address by order the manner and condition under which marijuana items held by the licensee may be transferred or sold.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Section 25, Chapter 614, Oregon Laws 2015.

845-025-1290 **Licensee Responsibility**

A licensee is responsible for:

- (1) The violation of any administrative rule of the Commission, sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or chapter 699, Oregon Laws 2015 affecting the licensee's license privileges.
- (2) Any act or omission of a licensee representative in violation of any administrative rule of the Commission, sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or chapter 699, Oregon Laws 2015 affecting the licensee's license privileges.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 2, Chapter 614, Oregon Laws 2015

845-025-1295
Local Ordinances

The Commission may impose a civil penalty, suspend or cancel any licensee for failure to comply with an ordinance adopted by a city or county pursuant to Section 34, chapter 614, Oregon Laws 2015 if the city or county:

- (a) Has provided the licensee with due process substantially similar to the due process provided to a licensee under the Administrative Procedures Act, ORS 183.413 to 183.470; and
- (b) Provides the Commission with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes that the licensee has violated the local ordinance.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.
Stats. Implemented: Section 33, Chapter 614, Oregon Laws 2015.

845-025-1300
Licensee Prohibitions

- (1) A licensee may not:
 - (a) Import into this state or export from this state any marijuana items;
 - (b) Give marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or game of skill, or competition of any kind;
 - (c) Sell, give or otherwise make available any marijuana items to any person who is visibly intoxicated;
 - (d) Make false representations or statements to the commission in order to induce or prevent action by the commission;
 - (e) Maintain a noisy, disorderly or insanitary establishment or supply adulterated marijuana items;
 - (f) Misrepresent any marijuana item to a customer or to the public;
 - (g) Sell any marijuana item through a drive-up window;
 - (h) Deliver marijuana to any consumer off the licensed premises except as permitted by OAR 845-025-2880
 - (i) Sell or offer to sell a marijuana item that does not comply with the minimum standards prescribed by the statutory laws of this state; or
 - (j) Use or allow the use of a mark or label on the container of a marijuana item that is kept for sale if the container does not precisely and clearly indicate the nature of the container's contents or in any way might deceive a customer as to the nature, composition, quantity, age or quality of the marijuana item.

(2) No licensee or licensee representative may be under the influence of intoxicants while on duty. Whether a person is paid or scheduled for work is not determinative of whether the person is considered "on duty" under this subsection.

(a) For purposes of this rule "on duty" means:

(A) The beginning of a work shift that involves the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, to the end of the shift including coffee and meal breaks;

(B) For an individual working outside a scheduled work shift, the performance of acts on behalf of the licensee that involve the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, if the individual has the authority to put himself or herself on duty; or

(C) A work shift that includes supervising those who handle or sell marijuana items, check identification or control the licensed premises.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 48, 49, 50, 51, 52 and 53

SECURITY

845-025-1400 **Security Plans**

(1) A licensee may, in writing, request that the Commission waive one or more of the security requirements described in OAR 845-025-1400 to 845-025-1470 by submitting a security plan for Commission approval. The security plan must include:

- (a) The specific rules and subsections of a rule that is requested to be waived;
- (b) The reason for the waiver;
- (c) A description of an alternative safeguard the licensee can put in place in lieu of the requirement that is the subject of the waiver;
- (d) An explanation of how and why the alternative safeguard accomplishes the goals of the security rules, specifically public safety, prevention of diversion, accountability, and prohibiting access to minors.

(2) The Commission may, in its discretion, and on a case by case basis, approve the security plan if it finds:

- (a) The reason the licensee is requesting the waiver is because another state or local law prohibits the particular security measure that is required; or
- (b) The licensee cannot, for reasons beyond the licensee's control or is cost prohibitive, comply with the particular security measure that is required; and
- (c) The alternative safeguard that is proposed meets the goals of the security rules.

(3) The Commission must notify the licensee in writing, whether the security plan has been approved. If the security plan is approved the notice must specifically describe the alternate safeguards that are required and, if the security plan is time limited, must state the time period the security plan is in effect.

(4) The Commission may withdraw approval of the security plan at any time upon a finding that the previously approved alternative measures are not sufficient to accomplish the goals of the security rules. If the Commission withdraws its approval of the security plan the licensee will be given a reasonable period of time to come into compliance with the security requirement that was waived.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

845-025-1410 **Security Requirements**

(1) A licensee is responsible for the security of all marijuana items on the licensed premises, including providing adequate safeguards against theft or diversion of marijuana items and records that are required to be kept.

(2) The licensee must ensure that commercial grade, non-residential door locks are installed on every external door of a licensed premises where marijuana items are present.

(3) During all hours when the licensee is not operating a licensee must ensure that:

- (a) All entrances to and exits from a licensed premises are securely locked and any keys or key codes to the enclosed area remain in the possession of the licensee, licensee representative, or authorized personnel; and
- (b) All marijuana items on a licensed retailer's premises are kept in a safe or vault as those terms are defined in OAR 845-025-1015.
- (c) All marijuana items on the licensed premises of a licensee other than a retailer are kept in a locked, enclosed area within the licensed premises that is secured with a door that contains a multiple-position combination lock or the equivalent and a relocking device or the equivalent.

(4) A licensee must:

- (a) Have an encrypted network infrastructure;
- (b) Have an electronic back-up system for all electronic records; and
- (c) Keep all video recordings and archived required records not stored electronically in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the licensed business is open.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

845-025-1420

Alarm System

(1) A licensed premises must have a fully operational security alarm system, activated at all times when the licensed premises is closed for business on all:

- (a) Entry or exit points to and from the licensed premises; and
- (b) Perimeter windows, if applicable.

(2) The security alarm system for the licensed premises must:

- (a) Be able to detect movement within any indoor area on the licensed premises;
- (b) Be programmed to notify a security company that will notify the licensee, licensee representative or authorized personnel in the event of a breach or if unavailable, law enforcement; and
- (c) Have at least two operational "panic buttons" located inside the licensed premises that are linked with the alarm system that immediately notifies a security company and law enforcement.

(3) Upon request licensees shall make all information related to security alarm systems, monitoring and alarm activity available to the commission.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

845-025-1430**Video Surveillance Equipment**

- (1) A licensed premises must have a fully operational video surveillance recording system.
- (2) Video surveillance equipment must, at a minimum:
 - (a) Consist of:
 - (A) Digital or network video recorders;
 - (B) Cameras capable of meeting the requirements of OAR 845-025-1450 and this rule;
 - (C) Video monitors;
 - (D) Digital archiving devices; and
 - (E) A minimum of one monitor on premise capable of viewing video;
 - (F) A printer capable of producing still photos.
 - (b) Be equipped with a failure notification system that provides, within one hour, notification to the licensee or an authorized representative of any prolonged surveillance interruption or failure; and
 - (c) Have sufficient battery backup to support a minimum of one hour of recording time in the event of a power outage.

(3) A licensee's video surveillance system must be capable of recording all pre-determined surveillance areas in any lighting conditions.

(4) All video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to the licensee, licensee representatives, or authorized personnel, and the Commission.

(5) In limited access areas, as that term is defined in OAR 845-025-1015 all cameras shall have minimum resolution of 1280 x 720 px and record at 10 fps (frames per second).

(6) In exterior perimeter and non-limited access area cameras shall have a minimum resolution of 1280 x 720 px and record at least 5 fps, except where coverage overlaps any limited access areas such as entrances or exits and in those overlap areas cameras must record at 10 fps.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

845-025-1440**Required Camera Coverage and Camera Placement**

- (1) A licensed premises must have camera coverage, as applicable, for:
 - (a) All limited access areas as that term is defined in OAR 845-025-1015;
 - (b) All point of sale areas;
 - (c) All points of entry to or exit from limited access areas; and
 - (d) All points of entry to or exit from the licensed premises;
- (2) A licensee must ensure that cameras are placed so that they capture clear and certain images of any individual and activity occurring:
 - (a) Within 15 feet both inside and outside of all points of entry to and exit from the licensed premises; and
 - (b) Anywhere within secure or limited access areas on the licensed premises.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

845-025-1450

Video Recording Requirements for Licensed Facilities

- (1) A licensee must have cameras that continuously record 24 hours a day all areas with marijuana items on the licensed premise.
- (2) A licensee must:
 - (a) Use cameras that record at a minimum resolution of 1280 x 720 px.
 - (b) Keep all surveillance recordings for a minimum of 30 calendar days and in a format approved by the Commission that can be easily accessed for viewing and easily reproduced.
 - (c) Have a surveillance system that has the capability to produce a still photograph from any camera image.
 - (d) Have the date and time embedded on all surveillance recordings without significantly obscuring the picture.
 - (e) Archive video recordings in a format that ensures authentication of the recording as a legitimately-captured video and guarantees that no alterations of the recorded image has taken place.
 - (f) Keep surveillance recordings for periods exceeding 30 days upon request of the Commission and make video surveillance records and recordings available immediately upon request to the Commission for the purpose of ensuring compliance with the Act and these rules.
 - (g) Immediately notify the Commission of any equipment failure or system outage lasting 30 minutes or more.
- (3) Failure to comply with subsections (2)(e) or (f) of this rule is a Category I violation and may result in license revocation.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

845-025-1460

Location and Maintenance of Surveillance Equipment

- (1) A licensee must:
 - (a) Have the surveillance room or surveillance area in a limited access area.
 - (b) Have the surveillance recording equipment housed in a designated, locked, and secured room or other enclosure with access limited to:
 - (A) The licensee, licensee representatives, and authorized personnel
 - (B) Employees of the Commission;
 - (C) State or local law enforcement agencies for a purpose authorized under the Act, these rules, or for any other state or local law enforcement purpose; and
 - (D) Service personnel or contractors.
 - (c) Back-up all required video surveillance recordings off-site and such off-site storage must be secure and the recordings must be easily accessed for viewing and easily reproduced.
- (2) A licensee must keep a current list of all authorized employees and service personnel who have access to the surveillance system and room on the licensed premises.

(3) Licensees must keep a surveillance equipment maintenance activity log on the licensed premises to record all service activity including the identity of any individual performing the service, the service date and time and the reason for service to the surveillance system.

(4) Off-site monitoring of the licensed premises by a licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

845-025-1470

Producer Security Requirements

(1) In addition to the security requirements in OAR 845-025-1400 to 845-025-1460 a producer must effectively prevent public access and obscure from public view all areas of marijuana production. A producer may satisfy this requirement by:

- (a) Submitting a security plan as described in (x-ref);
- (b) Fully enclosing indoor production on all sides so that no aspect of the production area is visible from the exterior satisfies; or
- (c) Erecting a solid wall or fence on all exposed sides of an outdoor production area that is at least eight (8) feet high.

(2) If a producer chooses to dispose of usable marijuana by any method of composting, as described in OAR 845-025-7750, the producer must prevent public access to the composting area and obscure the area from public view.

Stat. Auth.: Sections 2 and 12, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2 and 12, Chapter 614, Oregon Laws 2015.

HEALTH AND SAFETY

845-025-1600

State and Local Safety Inspections

- (1) All marijuana licensees may be subject to inspection of licensed premises by state or local government officials to determine compliance with state or local health and safety laws.
- (2) A licensee must contact any utility provider to ensure that the licensee complies with any local ordinance or utility requirements such as water use, discharge into the sewer system, or electrical use.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

845-025-1620

General Sanitary Requirements

- (1) A marijuana licensee must:
 - (a) Prohibit any individual working on a licensed premises who has or appears to have a communicable disease, open or draining skin lesion infected with *Staphylococcus aureus* or *Streptococcus pyogenes* or any illness accompanied by diarrhea or vomiting for whom there is a reasonable possibility of contact with marijuana items from having contact with a marijuana item until the condition is corrected;
 - (b) Require all persons who work in direct contact with marijuana items conform to hygienic practices while on duty, including but not limited to:
 - (A) Maintaining adequate personal cleanliness; and
 - (B) Washing hands thoroughly in an adequate hand-washing area before starting work, prior to having contact with a marijuana item and at any other time when the hands may have become soiled or contaminated;
 - (c) Provide hand-washing facilities adequate and convenient, furnished with running water at a suitable temperature and provided with effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying device;
 - (d) Properly remove all litter and waste from the licensed premises and maintain the operating systems for waste disposal in an adequate manner so that they do not constitute a source of contamination in areas where marijuana items are exposed;
 - (e) Provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and
 - (f) Hold marijuana items that can support pathogenic microorganism growth or toxic formation in a manner that prevents the growth of these pathogenic microorganism or formation toxins.
- (2) For purposes of this rule “communicable disease” includes but is not limited to: diphtheria, measles, *Salmonella enterica* serotype *Typhi* infection, shigellosis, Shiga-toxigenic *Escherichia coli* (STEC) infection, hepatitis A, and tuberculosis.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Section 51, Chapter 614, Oregon Laws 2015.

RECREATIONAL MARIJUANA PRODUCERS

845-025-2000

Definitions

As used in OAR 845-025-2000 to 845-025-2080:

- () “Canopy” means the surface area utilized to produce mature marijuana plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries.
- () “Indoor production” means producing marijuana in any manner:
 - (a) Utilizing artificial lighting on mature marijuana plants; or
 - (b) Other than “outdoor production” as that is defined in this rule.
- () “Outdoor production” means producing marijuana:
 - (a) In an expanse of open or cleared ground; or
 - (b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

Stat. Auth.: Sections 2 and 12, Chapter 614, Oregon Laws 2015.

Stats. Implemented: Sections 2 and 12, Chapter 614, Oregon Laws 2015.

845-025-2020

Producer Privileges

- (1) A producer may only plant, cultivate, grow, harvest and dry marijuana in the manner approved by the Commission and consistent with the chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015 and these rules.
- (2) A producer may engage in indoor or outdoor production of marijuana, or a combination of the two.
- (3) A producer may sell or deliver:
 - (a) Usable marijuana to the licensed premises of a marijuana processor, wholesaler, retailer, laboratory, or research certificate holder;
 - (b) Dried mature marijuana plants that have been entirely removed from any growing medium to the licensed premises of a marijuana processor or research certificate holder; or
 - (c) Immature marijuana plants and seeds to the licensed premises of a marijuana producer, wholesaler, retailer or research certificate holder.
- (4) A producer may not sell a mature marijuana plant other than as provided in section (3)(b) of this rule.
- (5) A producer may provide a sample of usable marijuana to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The sample product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

Stat. Auth.: Sections 2 and 12, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 12, Chapter 614, Oregon Laws 2015

845-025-2030

Licensed Premises of Producer

- (1) The licensed premises of a producer authorized to cultivate marijuana indoors includes all public and private enclosed areas used in the business operated at the location and any areas outside of a building that the commission has licensed.
- (2) The licensed premises of a producer authorized to cultivate marijuana outdoors includes the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has the right to occupy.
- (3) A producer may not engage in any privileges of the license within a primary residence.
- (4) The licensed premises of a producer may not be located at the same physical location or address as a marijuana grow site registered under ORS 475.304 unless the producer is also a person responsible for a marijuana grow site and has been issued a license by the Commission in accordance with section 116, chapter 614, Oregon Laws 2014, and OAR 845-025-1100.

Stat. Auth.: Sections 2 and 12, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 12 and 116, Chapter 614, Oregon Laws 2015

845-025-2040

Production Size Limitations

(1) Cultivation Batches and Cultivate Batch Sizes.

- (a) A producer must establish cultivation batches and assign each cultivation batch a unique identification number.
- (b) A cultivation batch may not have more than 100 immature plants.
- (c) A producer may have an unlimited number of cultivation batches at any one time.

(2) Canopy Size Limits.

- (a) Indoor Production.
 - (A) Tier I: Up to 5,000 square feet.
 - (B) Tier II: 5,001 to 10,000 square feet.
- (b) Outdoor production.
 - (A) Tier I: Up to 20,000 square feet.
 - (B) Tier II: 20,001 to 40,000 square feet.
- (c) Mixed production. If a producer intends to have a mixture of indoor and outdoor production the Commission will determine the producer's tiers and canopy sizes by applying the ratio in section (4) of this rule.
- (d) For purposes of this section, square footage of canopy space is measured starting from the outer most point of the furthest mature flowering plant in a designated growing space and continuing around the outside of all mature flowering plants located within the designated growing space.
- (e) A producer may designate multiple grow canopy areas at a licensed premises but those spaces must be separated by a physical boundary such as an interior wall or by at least 10 feet of open space.

(f) If a local government adopts an ordinance that would permit a producer to have a higher canopy size limit than is permitted under this rule, the local government may petition the Commission for an increase in canopy size limits for that jurisdiction. If the Commission grants such a petition, the Commission may amend this rule in addition to considering changes to the license fee schedule.

(g) On an annual basis, the Commission will evaluate market demand for marijuana items, the number of person applying for producer licenses or licensed as producers and whether the availability of marijuana items in this state is commensurate with the market demand. Following this evaluation the Commission may amend this rule as needed.

(3) Canopy Size Limit – Designation and Increases.

(a) A producer must clearly identify designated canopy areas and proposed canopy size in the initial license application. A producer may change a designated canopy area within a production type at any time with prior written notice to Commission, but a producer may only change canopy tiers at the time of renewal in accordance with subsection (b) of this section.

(b) A producer may submit a request to change canopy tiers at the time the producer submits an application for renewal of the license. The Commission will grant a request to increase the canopy tier for the producer's next licensure term if:

- (A) The producer's renewal application is otherwise complete;
- (B) There are no bases to deny or reject the producer's renewal application;
- (C) The producer has not already reached the applicable maximum canopy size set forth in section (2) of this rule; and
- (D) During the preceding year of licensure, the producer has not been found to be in violation, and does not have any pending allegations of violations of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules.

(c) The Commission shall give a producer an opportunity to be heard if a request is rejected under this section.

(4) Mixed cultivation methods.

(a) A producer may produce marijuana indoor and outdoor at the same time on the same licensed premises. The Commission must be notified of a producer's plan to engage in the indoor and outdoor production of marijuana at the time of initial licensure or at renewal, and not at any other time. A producer who utilizes mixed production may only change designated canopy areas from one production type to another at the time the producer submits a renewal application.

(b) The Commission must approve the canopy size applicable to each method.

(c) The Commission will use a 4:1 ratio, for outdoor and indoor respectively, to allocate canopy size limits under this section, not to exceed the sum canopy size limits set forth in section (2) of this rule. For example, if a Tier II producer in the first year of licensure has 5,000 square feet of indoor canopy space, then the producer may have up to 20,000 square feet of outdoor canopy space at the same time.

(5) Violations. An intentional violation of this rule is a Category 1 violation and may result in license revocation. All other violations are Category III violations.

Stat. Auth.: Sections 2, 12 and 13, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 13, Chapter 614, Oregon Laws 2015

845-025-2050
Operating Procedures

(1) A producer must:

- (a) Establish written standard operating procedures for the production of marijuana. The standard operating procedures must at a minimum include when, and the manner in which, all pesticide and or other chemicals are to be applied during the production process; and
- (b) Maintain a copy of all standard operating procedures on the licensed premises.

(2) If a producer licensee makes a material change to its standard operating procedures it must document the change and revise its standard operating procedures accordingly. Records detailing the material change must be maintained on the licensed premises by the producer licensee.

Stat. Auth.: Sections 2 and 12, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 12, Chapter 614, Oregon Laws 2015

845-025-2060
Start-up Inventory

(1) Marijuana producers may not receive immature marijuana plants or seeds from any source other than from another licensee, except that between January 1, 2016 and December 31, 2016, a marijuana producer may receive immature marijuana plants and seeds from any source within Oregon for up to 90 days following initial licensure by the Commission.

(2) The marijuana producer shall, through CTS, report receipt of the number of immature marijuana plants or seeds received under this section within 48 hours of the plants or seeds arriving at the licensed premises. A producer does not have to document the source of the immature plants or seeds during the 90 day start-up period.

(3) Failure to comply with this rule is a Category I violation and could result in license revocation.

Stat. Auth.: Sections 2 and 12, Chapter 614, Oregon Laws 2015
Stats. Implemented: Sections 12 and 23, Chapter 614, Oregon Laws 2015

845-025-2070
Pesticides, Fertilizers and Agricultural Chemicals

(1) **Pesticides.** A producer may only use pesticides in accordance with ORS Chapter 634 and OAR 603, Division 57.

(2) **Fertilizers, Soil Amendments, Growing Media.** A producer may only use fertilizer, agricultural amendments, agricultural minerals and lime products in accordance with ORS Chapter 633.

(3) A producer may not treat or otherwise adulterate usable marijuana with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell.

(4) In addition to other records required by these rules, a producer must maintain, at all times and on the licensed premises:

- (a) The material safety data sheet (MSDS) for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana;
- (b) The original label or a copy thereof for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana, and
- (c) A log of all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana. The log must include:

(A) The information required to be documented by a pesticide operator in ORS 634.146; and

(B) The unique identification tag number of the cultivation batch or individual mature marijuana plant to which the product was applied, or if applied to all plants on the licensed premises a statement to that affect.

(5) A producer may maintain the records required under this rule in electronic or written form. If electronic, a producer shall maintain a backup system or sufficient data storage so that records are retained for no less than two years after harvest of any marijuana on which documented products were used. If written, a producer shall ensure that the records are legible and complete, shall keep them in a safe and secure location, and shall retain the records for no less than two years after harvest of any marijuana on which documented products were used.

(6) A producer must make the records required under this rule immediately available during an premises inspection by a Commission regulatory specialist. If the Commission requests copies of the records at any time other than during a premises inspection, a producer shall produce the records upon request.

(7) A violation of sections (1) to (4) of this rule is a Category 1 violation and could result in license revocation.

(8) A failure to keep complete records as required by this rule is a Category III violation. A failure to keep records on the licensed premises, or failure to timely produce records, is a Category III violation.

Stat. Auth.: Sections 2 and 12, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 12 and 76, Chapter 614, Oregon Laws 2015

845-025-2080

Harvest Lot Segregation

(1) A producer must, within 45 days of harvesting a harvest lot, physically segregate the harvest lot from other harvest lots, place the harvest lot in a receptacle or multiple receptacles and assign a UID tag to each receptacle that is linked to each plant that was harvested.

(2) A producer may not combine harvest lots that are of a different strain, were produced using different growing practices or harvested at a different time.

Stat. Auth.: Sections 2 and 12, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 12 and 23, Chapter 614, Oregon Laws 2015

MEDICAL MARIJUANA OPT-IN

845-025-2400

Medical Marijuana Grow Site Opt-In

(1) For purposes of this rule:

(a) "Grower" means a person responsible for a marijuana grow site as that term is defined in OAR 333-008-0010.

(b) "Grow site" has the meaning given that term in OAR 333-008-0010.

(c) "Patient" has the same meaning given that term in OAR 333-008-0010.

(2) A grower may apply for a Producer license to produce marijuana at the same location as a grow site only if all growers producing marijuana at that address are listed on the application.

(3) In addition to the requirements of OAR 845-025-1030, the applicants must provide proof that each patient for whom the applicants are producing marijuana at the grow site proposed to be licensed has granted permission for the applicants to apply for a license and sell excess usable marijuana and immature plants to licensees of the Commission.

(4) If the Commission approves the application and issues a producer license to the applicants the licensees may not possess more than the amount of usable marijuana or marijuana plants permitted under ORS 475.300 to 475.346 unless the licensed premises ceases to be registered as a grow site with the Oregon Health Authority (OHA).

(5) If the licensed premises ceases to be registered as a grow site with the Oregon Health Authority, the licensee must notify the Commission within 5 days and provide proof that no growers or patients are registered by OHA at the licensed premises.

(6) A licensee licensed under this rule must record in CTS within five days of initial licensure, all mature and immature marijuana plants and usable marijuana on the licensed premises.

(7) A producer, licensed under this rule:

(a) Is subject to these rules with the exception of OAR 845-025-2060;

(b) Must comply with the duties, functions and powers of a grower under ORS 475.300 to 475.346 and any rule adopted thereunder, except that a grower is not subject to OHA's requirements related to the reporting or tracking of mature marijuana plants and usable marijuana;

(c) May sell usable marijuana or immature plants in excess of amounts produced for a patient, to other licensees, in accordance with these rules; and

(d) May, notwithstanding section 6, chapter 614, Oregon Laws 2015, transfer marijuana and usable marijuana to other registrants under ORS 475.300 to 475.346 in accordance with any rules adopted by the OHA.

Stat. Auth.: Section 116, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 116, Chapter 614, Oregon Laws 2015

MARIJUANA RETAILERS

845-025-2800

Retailer Privileges

A retailer is the only licensee that is authorized to sell a marijuana item to a consumer 21 years of age or older.

Stat. Auth.: Sections 2 and 16, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 2 and 16, Chapter 614, Oregon Laws 2015

845-025-2820

Retailer Operational Requirements

(1) A retailer may:

- (a) Only receive marijuana items from a producer, wholesaler, processor or laboratory.
- (b) Only sell marijuana items to a consumer from the licensed premises, unless sale is made pursuant to a bona fide order as described in OAR 845-025-2880.
- (c) Only sell up to the following amounts at any one time to a consumer within one business day:
 - (A) One ounce of usable marijuana;
 - (B) 16 ounces of a cannabinoid product in solid form;
 - (C) 72 ounces of a cannabinoid product in liquid form;
 - (D) Five grams of cannabinoid extracts or concentrate, whether sold alone or contained in an inhalant delivery system;
 - (E) Four immature marijuana plants; and
 - (F) Ten marijuana seeds.
- (d) Refuse to sell marijuana items to a consumer.
- (e) Only sell to consumers between the hours of 7:00 a.m. and 10 p.m. local time.

(2) A retailer may not:

- (a) Provide free samples of a marijuana item to a consumer;
- (b) Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts.
- (c) Require a consumer to purchase other products or services as a condition of purchasing a marijuana item or receiving a discount on a marijuana item.
- (d) Sell a marijuana item for less than the cost of acquisition.
- (e) Provide coupons or offer discounts, except that uniform volume discounts are permitted.
- (f) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day.
- (g) Sell any product derived from industrial hemp, as that is defined in ORS 571.300, that is intended for human consumption, ingestion, or inhalation, unless it has been tested, labeled and packaged in accordance with these rules.

(3) A retailer's pricing on marijuana items must remain consistent during each business day.

(4) Prior to completing the sale of a marijuana item to a consumer a retailer must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:

- (a) Passport;
- (b) Driver license, whether issued in this state or by any other state, as long as the license has a picture of the person;
- (c) Identification card issued under ORS 807.400;
- (d) United States military identification card; or
- (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.

(5) Marijuana items offered for sale by a retailer must be stored in such a manner that the items are only accessible to authorized representatives until such time as the final sale to the consumer is completed.

(6) For purposes of this rule "coupon" means any coupon, ticket, certificate token or any other material that a person may use to obtain a price reduction or rebate in connection with the acquisition or purchase of a marijuana item,

Stat. Auth.: Sections 2 and 16, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 15, Chapter 1, Oregon Laws 2015

845-025-2840

Retailer Premises

(1) The licensed premises of a retailer:

- (a) May not be located in an area that is zoned exclusively for residential use.
- (b) 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.

(c) Must be enclosed on all sides by permanent walls and doors.

(2) A retailer must post in a prominent place signs at every:

(a) Point of sale that read:

- (A) "No Minors Permitted Anywhere on the Premises"; and
- (B) "No On-Site Consumption".

(b) Exit from the licensed premises that reads: "Marijuana or Marijuana Infused Products May Not Be Consumed In Public".

(3) A retailer must designate a consumer sales area on the licensed premises where consumers are permitted. The area shall include the portion of the premises where marijuana items are displayed for sale to the consumer and sold and may include other contiguous areas such as a lobby or a restroom. The consumer sales area is the sole area of the licensed premises where consumers are permitted.

(4) All inventory must be stored on the licensed premises.

(5) For purposes of determining the distance between a retailer and a school referenced in subsection (1)(b) of this rule, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary

line of the real property comprising a school to the closest point of the licensed premises of a retailer. If any portion of the licensed premises is within 1,000 feet of a school as described subsection (1)(b) of this rule an applicant will not be licensed.

Stat. Auth.: Sections 2 and 16, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 6 and 16, Chapter 614, Oregon Laws 2015

845-025-2860

Consumer Health and Safety Information

A retailer must:

- (1) Post at the point of sale, the following posters prescribed by the Commission, measuring 22 inches high by 17 inches wide that can be downloaded at www.oregon.gov/olcc/marijuana:
 - (a) A Pregnancy Warning Poster; and
 - (b) A Poisoning Prevention Poster.
- (2) Post at the point of sale a color copy of the "Educate Before You Recreate" flyer measuring 22 inches high by 17 inches wide that can be downloaded at WHATSLEGALOREGON.COM.
- (3) Distribute to each individual at the time of sale, a Marijuana Information Card, prescribed by the Commission, measuring 3.5 inches high by 5 inches long that can be downloaded at www.oregon.gov/olcc/marijuana.

Stat. Auth.: Sections 2 and 16, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 2 and 16, Chapter 614, Oregon Laws 2015

845-025-2880

Delivery of Marijuana Items by Retailer

(1) A marijuana retailer may deliver a marijuana item to a residence in Oregon subject to compliance with this rule. For purposes of this rule "residence" means a dwelling such as a house or apartment but does not include a dormitory, hotel, motel, bed and breakfast or similar commercial business.

(2) Delivery Approval Process.

(a) The retailer must request approval from the Commission prior to undertaking delivery service of marijuana items, on a form prescribed by the Commission that includes a statement that the retailer:

- (A) Understands and will follow the requirements for delivery listed in this rule; and
- (B) Has taken steps to ensure the personal safety of delivery personnel, including providing any necessary training.

(b) The retailer must receive written approval from the Commission prior to making any deliveries.

(c) The Commission may refuse to review any request for approval that is not complete and accompanied by the documents or disclosures required by the form.

(d) If the Commission denies approval the Commission shall give a retailer the opportunity to be heard.

(e) The Commission may withdraw approval for delivery service at any time if the Commission finds that the retailer is not complying with this rule, the personal safety of delivery personnel is

at risk, the retailer's delivery service has been the target of theft, or the delivery service is creating a public safety risk.

(3) Bona Fide Orders.

(a) A bona fide order must be received by an approved retailer from the individual requesting delivery, before 4:00 p.m. on the day the delivery is requested.

(b) The bona fide order must contain:

(A) The individual requestor's name, date of birth, the date delivery is requested and the address of the residence where the individual would like the items delivered;

(B) A document that describes the marijuana items proposed for delivery and the amounts; and

(C) A statement that the marijuana is for personal use and not for the purpose of resale.

(4) Delivery Requirements.

(a) Deliveries must be made before 9:00 p.m. local time and may not be made between the hours of 9:00 p.m. and 8:00 a.m. local time.

(b) The marijuana retailer may only deliver to the individual who placed the bona fide order and only to individuals who are 21 years of age or older.

(c) At the time of delivery the individual performing delivery must check the identification of the individual to whom delivery is being made in order to determine that it is the same individual who submitted the bona fide order, that the individual is 21 years of age or older, and must require the individual to sign a document indicating that the items were received.

(d) A marijuana retailer may not deliver a marijuana item to an individual who is visibly intoxicated at the time of delivery.

(e) Deliveries may not be made more than once per day to the same physical address or to the same individual.

(f) Marijuana items delivered to an individual's residence must:

(A) Comply with the packaging rules in OAR 845-025-7000 to 845-025-7060; and

(B) Be placed in a larger delivery receptacle that has a label that reads: "Contains marijuana: Signature of person 21 years of age or older required for delivery".

(g) A retailer may not carry or transport at any one time more than a total of \$100 in retail value worth of marijuana items designated for retail delivery.

(h) All marijuana items must be kept in a lock-box securely affixed inside the delivery vehicle.

(i) A manifest must be created for each delivery or series of deliveries and the individual doing the delivery may not make any unnecessary stops between deliveries or deviate substantially from the manifest route.

(5) Documentation Requirements. A marijuana retailer must document the following regarding deliveries:

(a) The bona fide order and the date and time it was received by the retailer;

(b) The date and time the marijuana items were delivered;

(c) A description of the marijuana items that were delivered, including the weight or volume and price paid by the consumer;

(d) Who delivered the marijuana items; and

(e) The name of the individual to whom the delivery was made and the delivery address.

(6) A retailer is only required to maintain the name of an individual to whom a delivery was made for one year.

(7) Prohibitions. (a) A retailer may deliver marijuana items only to a location within:

(A) The city in which the licensee is licensed, if a licensee is located within a city; or

(B) Unincorporated areas of the county in which the licensee is licensed, if a licensee is located in an unincorporated city or area within the county.

(b) A retailer may not deliver marijuana items to a residence located on publicly owned land.

(8) Sanction. A violation of any section of this rule that is not otherwise specified in OAR 845-025-8590 is a Category III violation.

Stat. Auth.: Sections 2, 6 and 16, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 6, chapter 614, Oregon Laws 2015

845-025-2890

Collection of Taxes

(1) A retailer must collect, at the point of sale, the tax imposed on the consumer under section 2, chapter 699, Oregon Laws 2015, and remit the tax to the Oregon Department of Revenue in accordance Department of Revenue rules.

(2) A violation of this rule is a Category III violation.

(3) An intentional violation of this rule is a Category I violation.

Stat. Auth.: Sections 2 and 16, chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 2 and 16, chapter 614, Oregon Laws 2015

RETAIL MARIJUANA PROCESSORS

845-025-3200

Definitions

For purposes of OAR 845-025-3200 to 845-025-3290:

- (1) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.
- (2) "Food" means a raw, cooked, or processed edible substance, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Stat. Auth.: Sections 2 and 14, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 14, Chapter 614, Oregon Laws 2015

845-025-3210

Endorsements

(1) A marijuana processor may only process and sell cannabinoid products, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity. Endorsements types are:

- (a) Cannabinoid edible processor;
- (b) Cannabinoid topical processor;
- (c) Cannabinoid concentrate processor; and
- (d) Cannabinoid extract processor.

(2) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.

(3) In order to apply for an endorsement an applicant or processor licensee must submit a form prescribed by the Commission that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.

(4) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.

(5) An individual processor licensee may hold multiple endorsements.

(6) For the purposes of endorsements any cannabinoid product that is intended to be consumed orally is considered a cannabinoid edible.

(7) If a processor is no longer going to process the product for which the processor is endorsed the processor must notify the Commission in writing and provide the date on which the processing of that product will cease.

(8) The Commission may deny a processor's request for an endorsement if the processor cannot or does not meet the requirements in OAR 845-025-3200 to 845-025-3290 for the endorsement that is requested. If the Commission denies approval the processor has a right to a hearing under the procedures of ORS Chapter 183

Stat. Auth.: Sections 2 and 14, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 14 and 18 Chapter 614, Oregon Laws 2015

845-025-3220**General Processor Requirements**

(1) A processor must:

- (a) Use equipment, counters and surfaces for processing that are food-grade and do not react adversely with any solvent being used.
- (b) Have counters and surface areas that are constructed in a manner that reduce the potential for development of microbials, molds and fungi and that can be easily cleaned.
- (c) Maintain the licensed premises in a manner that is free from conditions which may result in contamination and that is suitable to facilitate safe and sanitary operations for product preparation purposes.
- (d) Store all marijuana items not in use in a locked area, including products that require refrigeration in accordance with OAR 845-025-1410.
- (e) Assign every process lot a unique identification number and enter this information into CTS.

(2) A processor may provide a sample of a cannabinoid product, concentrate or extract to a marijuana wholesaler or retailer for the purpose of the wholesaler or retailer licensee determining whether to purchase the product but the product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

(3) A processor may not process or sell a marijuana item:

- (a) That by its shape and design is likely to appeal to minors, including but not limited to:
 - (A) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or
 - (B) Products in the shape of an animal, vehicle, person or character.
- (b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items.

Stat. Auth.: Sections 2 and 14, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 14, Chapter 614, Oregon Laws 2015

845-025-3230**Processor Policies and Procedures**

A processor must create and maintain written, detailed standard policies and procedures that include but are not limited to:

- (1) Instructions for making each cannabinoid concentrate, extract or product.
- (2) The ingredients and the amount of each ingredient for each process lot;
- (3) The process for making each product;
- (4) The number of servings in a process lot;
- (5) The intended amount of THC per serving of the product.
- (6) The process for making each process lot homogenous.
- (7) If processing a cannabinoid concentrate or extract:
 - (a) Conducting necessary safety checks prior to commencing processing;
 - (b) Purging any solvent or other unwanted components from a cannabinoid concentrate or extract;

- (8) Procedures for cleaning all equipment, counters and surfaces thoroughly.
- (9) Procedures for preventing growth of pathogenic organisms and toxin formation
- (10) Proper handling and storage of any solvent, gas or other chemical used in processing or on the licensed premises in accordance with material safety data sheets and any other applicable laws.
- (11) Proper disposal of any waste produced during processing in accordance with all applicable local, state and federal laws, rules and regulations.
- (12) Quality control procedures designed to maximize safety and minimize potential product contamination.
- (13) Appropriate use of any necessary safety or sanitary equipment.
- (14) Emergency procedures to be followed in case of a fire, chemical spill or other emergency.

Stat. Auth.: Sections 2 and 14, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 14, Chapter 614, Oregon Laws 2015

845-025-3240

Processor Training Requirements

- (1) A processor must have a comprehensive training program that includes, at a minimum, the following topics:
 - (a) The standard operating policies and procedures.
 - (b) The hazards presented by all solvents or other chemicals used in processing and on the licensed premises as described in the material safety data sheet for each solvent or chemical.
 - (c) Applicable Commission statutes and rules.
- (2) At the time of hire and prior to engaging in any processing, and once yearly thereafter, each employee involved in the processing of a cannabinoid concentrate, extract or product must be trained in accordance with the processor's training program.

Stat. Auth.: Sections 2 and 14, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 14, Chapter 614, Oregon Laws 2015

845-025-3250

Cannabinoid Edible Processor Requirements

- (1) A cannabinoid edible processor may only process in a food establishment licensed by the Oregon Department of Agriculture (ODA) and must comply with the applicable provisions of OAR 603, Division 21, Division 22, Division 24, Division 25, with the exception of OAR 603-025-0020(17) and Division 28.
- (2) A cannabinoid edible processor may not:
 - (a) Engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant, single-event temporary restaurant, commissary, mobile unit, bed or breakfast, or warehouse licensed under ORS 624;
 - (b) Share a food establishment with a person not licensed and endorsed by the Commission as a cannabinoid edible processor;

- (c) Process food intended for commercial sale that does not contain cannabinoids, at the licensed premises; or
- (d) Use a cannabinoid concentrate or extract to process food unless that concentrate or extract was made by a processor licensed by the ODA under ORS 616.706.

(3) A cannabinoid edible processor may share a food establishment with another cannabinoid edible processor if:

- (a) The schedule, with specific hours and days that each processor will use the food establishment, is prominently posted at the entrance to the food service establishment and has been approved by the Commission:
 - (A) The schedule must be submitted to the Commission in writing and will be approved if it demonstrates that use of a shared food establishment by multiple cannabinoid edible processors does not create an increased compliance risk.
 - (B) A processor licensee may only change the schedule with prior written approval from the Commission.
- (b) Each licensee designates a separate area to secure, in accordance with OAR 845-025-1410, any marijuana, cannabinoid products, concentrates or extracts that a licensee stores at the food establishment. If a cannabinoid edible processor does not store marijuana, cannabinoid products, concentrates or extracts at the food establishment those items must be stored on a licensed premises.
- (4) A food establishment used by a cannabinoid edible processor is considered a licensed premises and must meet the security and other licensed premises requirements in these rules.
- (5) A cannabinoid edible processor is strictly liable for any violation found at a shared food establishment during that processor's scheduled time or within that processor's designated area in the food establishment.

Stat. Auth.: Sections 2 and 14, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 14 and 18, Chapter 614, Oregon Laws 2015

845-025-3260

Cannabinoid Concentrate and Extract Processor Requirements

(1) **Cannabinoid Concentrates or Extracts.** A processor with a cannabinoid concentrate or extract endorsement:

- (a) May not use Class I solvents as those are classified in the Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 FR 67377).
- (b) Must:
 - (A) Only use a hydrocarbon-based solvent that is at least 99 percent purity.
 - (B) Only use a non-hydrocarbon-based solvent that is food-grade.
 - (C) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.
 - (D) Use only potable water and ice made from potable water in processing.
 - (E) If making a concentrate or extract that will be used in a cannabinoid edible, be endorsed as a cannabinoid edible processor and comply with OAR 845-025-3250.

(2) **Cannabinoid Extracts.** A processor with an endorsement to make cannabinoid extracts:

(a) May not use pressurized canned butane.

(b) Must:

(A) Process in a:

(i) Fully enclosed room clearly designated on the current diagram of the licensed premises.

(ii) Spark proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.

(B) Use a commercially manufactured professional grade closed loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted good engineering practices, such as:

(i) The American Society of Mechanical Engineers (ASME);

(ii) American National Standards Institute (ANSI);

(iii) Underwriters Laboratories (UL); or

(iv) The American Society for Testing and Materials (ASTM).

(C) If using CO₂ in processing, use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch.

(D) Have equipment and facilities used in processing approved for use by the local fire code official;

(E) Meet any required fire, safety, and building code requirements specified in:

(i) Applicable Oregon laws;

(ii) National Fire Protection Association (NFPA) standards;

(iii) International Building Code (IBC);

(iv) International Fire Code (IFC); and

(F) Have an emergency eye-wash station in any room in which cannabinoid extract is being processed.

(G) Have all applicable material safety data sheets readily available to personnel working for the processor;

(3) **Cannabinoid Concentrates.** A processor with an endorsement to make cannabinoid concentrates:

(a) May not:

(A) Use denatured alcohol.

(B) If using carbon dioxide, apply high heat or pressure.

(b) Must only use or store dry ice in a well ventilated room to prevent against the accumulation of dangerous levels of CO₂.

(c) May use:

(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; or

(C) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use heat over 180 degrees or pressure.

Stat. Auth.: Sections 2 and 14, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 14, Chapter 614, Oregon Laws 2015

845-025-3280**Cannabinoid Topical Processor**

A processor with a cannabinoid topical endorsement may not engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant or single-event temporary restaurant licensed under ORS 624.

Stat. Auth.: Sections 2 and 14, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section14, Chapter 614, Oregon Laws 2015

845-025-3290**Recordkeeping**

- (1) A processors must keep records documenting the following:
 - (a) How much marijuana is in each process lot;
 - (b) If a product is returned by a licensee, how much product is returned and why;
 - (c) If a defective product was reprocessed, how the defective product was reprocessed
 - (d) Each training provided in accordance with OAR 845-025-3240, the names of employees who participated in the training, and a summary of the information provided in the training.
- (2) A processor must obtain a material safety data sheet for each solvent used or stored on the licensed premises and maintain a current copy of the material safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process on the licensed premises.
- (3) If the Commission requires a processor to submit or produce documents to the Commission that the processor believes falls within the definition of a trade secret as defined in ORS 192.501, the processor must mark each document "confidential" or "trade secret".

Stat. Auth.: Sections 2 and 14, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section14, Chapter 614, Oregon Laws 2015

RECREATIONAL MARIJUANA WHOLESALER

845-025-3500

Wholesale License Privileges; Prohibitions

(1) License Privileges. A wholesale licensee may:

- (a) Purchase marijuana items from a producer, processor or wholesale licensee.
- (b) Sell, including sale by auction:
 - (A) Any type of marijuana item to a retail, wholesale or research certificate holder.
 - (B) Only immature marijuana plants and seeds to a producer licensee.
 - (C) Only usable marijuana to a processor licensee.
- (c) Transport and store marijuana items on behalf of other licensees, pursuant to the requirements of OAR 845-025-7500 to OAR 845-025-7590.
- (d) Provide a sample of usable marijuana or a cannabinoid product, concentrate or extract to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

(2) Prohibited Conduct. A wholesale licensee may not:

- (a) Receive marijuana items from any source other than a producer, processor or wholesale licensee.
- (b) Sell or otherwise transfer a marijuana item to consumers or any entity other than a licensee of the Commission.

(3) For purposes of this rule “marijuana item” does not include a mature marijuana plant.

Stat. Auth.: Sections 2 and 15, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 15 and 23, chapter 614, Oregon Laws 2015

MARIJUANA TESTING LABORATORIES

845-025-5000

Laboratory License Privileges

A licensed marijuana testing laboratory may:

- (1) Obtain samples of marijuana items from licensees for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490;
- (2) Transport and dispose of samples as provided in these rules; and
- (3) Perform testing on marijuana items in a manner consistent with the laboratory's accreditation by the Oregon Health Authority, these rules and OAR 333-007-0300 to 333-007-0490.

Stat. Auth.: Section 93, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 93, chapter 614, Oregon Laws 2015

845-025-5030

Laboratory Licensing Requirements

(1) General Requirements

- (a) A laboratory that intends to test marijuana items for producer, processor, wholesale or retail licensees must be licensed by the Commission.
- (b) An applicant for a license under this rule must comply with all applicable application requirements in OAR 845-025-1030 and pay the required application and license fees, except that a laboratory licensee is not subject to any residency requirements.
- (c) A laboratory application is subject to the same application review procedures as other applicants
- (d) In addition to the denial criteria in OAR 845-025-1115, the Commission may refuse to issue a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.
- (e) Laboratory application and license fees are established in OAR 845-025-1060.

(2) Accreditation by the Oregon Health Authority

- (a) In addition to the requirements listed in section (1) of this rule, an applicant for a laboratory license must be accredited by the Authority with a scope of accreditation that includes the sampling and testing analysis required in OAR 333-007-0300 to 333-007-0490 prior to exercising the licensed privileges in OAR 845-025-5000.
- (b) An applicant for a license under this rule may apply for licensure prior to receiving accreditation, but the Commission will not issue a license until proof of accreditation is received.
- (c) The Commission may make efforts to verify or check on an applicant's accreditation status during the licensing process, but an applicant bears the burden of taking all steps needed to secure accreditation and present proof of accreditation to the Commission.
- (d) In addition to the denial criteria in OAR 845-025-1115, the Commission may consider an application incomplete if the applicant does not obtain accreditation from the Authority within six months of applying for a license. The Commission shall give an applicant an opportunity to be heard if an application is declared incomplete under this section, but an applicant is not entitled to a contested case proceeding under ORS chapter 183. An applicant whose application is declared incomplete may reapply at any time.

(e) A licensed laboratory must maintain accreditation by the Authority at all times while licensed by the Commission. If a laboratory's accreditation lapses, is canceled or is suspended at any time for any reason while licensed by the Commission, the laboratory may not engage in any activities permitted under the license until accreditation is reinstated.

(f) Exercising license privileges while accreditation is suspended or canceled is a Category I violation and could result in license cancellation.

(3) Renewal.

(a) A laboratory must renew its license annually and pay the required renewal fees in accordance with OAR 845-025-1190.

(b) A laboratory renewal application may be denied for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.

Stat. Auth.: Section 93, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 93, chapter 614, Oregon Laws 2015

845-025-5045

Laboratory Tracking and Reporting

(1) A laboratory licensee is required to utilize CTS and follow all requirements established by OAR 845-025-7500 to OAR 845-025-7590 (general requirements).

(2) A laboratory licensee is responsible for tracking and entering the following information into CTS:

(a) Receipt of samples for testing, including:

- (A) Size of the sample;
- (B) Name of licensee from whom the sample was obtained;
- (C) Date the sample was collected; and
- (D) UID tag information associated with the harvest or process lot from which the sample was obtained.

(b) Tests performed on samples, including:

- (A) Date testing was performed;
- (B) What samples were tested for;
- (C) Name of laboratory responsible for testing; and
- (D) Results of all testing performed.

(c) Disposition of any testing sample material.

Stat. Auth.: Section 93, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 93, chapter 614, Oregon Laws 2015

845-025-5060**Laboratory Transportation and Waste Disposal**

- (1) A laboratory licensee must follow all rules regarding transportation of marijuana items established in OAR 845-025-7700.
- (2) A laboratory licensee must follow all rules regarding disposal of samples from marijuana items established in OAR 845-025-7750.

Stat. Auth.: Section 93, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 93, chapter 614, Oregon Laws 2015

845-025-5075**Laboratory Licensee Prohibited Conduct**

- (1) In addition to the prohibitions set forth in OAR 845-025-8520, a laboratory licensee may not:
 - (a) Perform any required marijuana testing using any testing methods or equipment not permitted under the laboratory's accreditation through the Authority.
 - (b) Perform any required marijuana testing for any licensed marijuana producer, processor, wholesaler or retailer in which the laboratory licensee has a financial interest in; or
 - (c) Engage in any activity that violates any provision of the chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, OAR 333-007-0300 through OAR 333-007-0490 or OAR 333, Division 64 as applicable or these rules.
- (2) The Commission may suspend or cancel a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, or these rules. The licensee has a right to a hearing under the procedures of ORS Chapter 183; OAR Chapter 137, division 003; and OAR Chapter 845, division 003.
- (2) A violation of this rule is a Category I violation and could result in license revocation.

Stat. Auth.: Section 93, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 93, chapter 614, Oregon Laws 2015

RESEARCH CERTIFICATE

845-025-5300.

Application for Marijuana Research Certificate.

(1) The Commission shall issue Marijuana Research Certificates to qualifying public and private researchers who present research proposals that demonstrate:

- (a) The proposed research would benefit the state's cannabis industry, medical research or public health and safety; and
- (b) The proposed operation and methodology complies with all applicable laws and administrative rules governing marijuana licensees and licensee representatives.

(2) The process for applying for, receiving and renewing a certificate shall be the same as the process for applying for, receiving and renewing a marijuana license under OAR 845-025-1030 to 845-025-1115 except that an applicant for a Marijuana Research Certificate is not subject to the residency requirements in OAR 845-025-1045(2)(b).

(3) In addition to the application requirements in OAR-025-1030 the applicant must also provide:

- (a) A clear description of the research proposal;
- (b) A description of the researchers' expertise in the scientific substance and methods of the proposed research;
- (c) An explanation of the scientific merit of the research plan, including a clear statement of the overall benefit of the applicant's proposed research to Oregon's cannabis industry, medical research, or to public health and safety;
- (d) Descriptions of key personnel, including clinicians, scientists, or epidemiologists and support personnel who would be involved in the research, demonstrating they are adequately trained to conduct this research;
- (e) A clear statement of the applicant's access to funding and the estimated cost of the proposed research;
- (f) A disclosure of any specific conflicts of interest that the researcher or other key personnel have regarding the research proposal; and
- (g) A description of the research methods demonstrating an unbiased approach to the proposed research.

(h) If the applicant intends to research the use of pesticides, an experimental use permit issued by Oregon Department of Agriculture pursuant to OAR 603-057-0160.

(4) Research certificates will be granted for up to a three year term.

(5) The Commission may request that the research certificate holder submit information and fingerprints required for a criminal background check at any time within the research certificate term.

(6) A certificate holder may, in writing, request that the Commission waive one or more of these rules. The request must include the following information:

- (a) The specific rule and subsection of a rule that is requested to be waived;
- (b) The reason for the waiver;
- (c) A description of an alternative safeguard the licensee can put in place in lieu of the requirement that is the subject of the waiver, or why such a safeguard is not necessary;
- (d) An explanation of how and why the alternative safeguard or waiver of the rule protects public health and safety, prevents diversion of marijuana, and provides for accountability.

(7) The Commission may, in its discretion, and on a case by case basis, grant the waiver in whole or in part if it finds:

- (a) The reason the certificate holder is requesting the waiver is because another state or local law prohibits compliance; or
- (b) The certificate holder cannot comply with the particular rule, for reasons beyond the certificate holder's control or compliance with the rule is cost prohibitive;
- (c) Because of the nature of the research the Commissions finds that compliance with a particular rule is not necessary and that even with the waiver public health and safety can be protected, there is no increased opportunity for diversion of marijuana, and the certificate holder remains accountable. .

(8) The Commission must notify the certificate holder in writing, whether the request has been approved. If the request is approved the notice must specifically describe any alternate safeguards that are required and, if the waiver is time limited, must state the time period the waiver is in effect.

(9) The Commission may withdraw approval of the waiver at any time upon a finding that the previously approved waiver is not protecting public health and safety or the research certificate holder has other issues with compliance. If the Commission withdraws its approval of the waiver the certificate holder will be given a reasonable period of time to come into compliance with the requirement that was waived.

Stat. Auth.: Section 113, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 113, chapter 614, Oregon Laws 2015

845-025-5350.

Marijuana Research Certificate Privileges and Prohibitions

(1) A certificate holder may receive marijuana items from a licensee or a registrant under ORS 475.300 to 475.346.

(2) A certificate holder may not sell or otherwise transfer marijuana items to any other person except when disposing of waste pursuant to OAR 845-025-7750, or transferring to another certificate holder.

(3) A certificate holder may not conduct any human subject research related to marijuana unless the certificate holder has received approval from an institutional review board that has adopted the Common Rule, 45 CFR Part 46.

(4) All administrative rules adopted by Commission for the purpose of administering and enforcing chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and any rules adopted thereunder with respect to licensees and licensee representatives apply to certificate holders except for those which are inconsistent with this rule.

Stat. Auth.: Section 113, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 113, chapter 614, Oregon Laws 2015

MARIJUANA HANDLER PERMITS

845-025-5500

Marijuana Handler Permit and Retailer Requirements

- (1) A marijuana handler permit is required for any individual who performs work for or on behalf of a marijuana retailer 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;
 - (c) The verification of any document described in section 16, chapter 1, Oregon Laws 2015; or
 - (d) The direct supervision of a person described in subsections (a) to (c) of this section.
- (2) An individual who is required by section (1) of this rule to hold a marijuana handler permit must carry that permit on his or her person at all times when performing work on behalf of a marijuana retailer.
- (3) A person who holds a marijuana handler permit must notify the Commission in writing within 10 days of any conviction for a misdemeanor or felony.
- (4) A marijuana retailer must verify that an individual has a valid marijuana handler permit issued in accordance with OAR 845-025-5500 to 845-025-5590 before allowing the individual to perform any work at the licensed premises.

Stat. Auth.: Sections 19 and 20, chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 19 and 20, chapter 614, Oregon Laws 2015

845-025-5520

Marijuana Handler Applications

- (1) In order to obtain a marijuana handler permit an individual must submit an application on a form prescribed by the Commission. The application must contain the applicant's:
 - (a) Name;
 - (b) Mailing address;
 - (c) Date of birth;
 - (d) Signature; and
 - (e) Response to conviction history questions.
- (2) In addition to the application an applicant must submit:
 - (a) A copy of a driver's license or identification card issued by one of the fifty states in the United States of America or a passport;
 - (b) The applicable fee as specified in OAR 845-025-1060; and
 - (c) Proof of having completed a marijuana handler education course and passed the examination.
- (3) If an application does not contain all the information requested or if the information and fee required in section (2) of this rule is not provided to the Commission, the application will be returned to the individual as incomplete, along with the fee.
- (4) If an application is returned as incomplete, the individual may reapply at any time.

Stat. Auth.: Sections 19 and 20, chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 19 and 20, chapter 614, Oregon Laws 2015

845-025-5540

Marijuana Handler Permit Denial Criteria

- (1) The Commission must deny an initial or renewal application if the applicant:
 - (a) Is not 21 years of age or older; or
 - (b) Has not completed the marijuana handler education course and passed the examination.
- (2) The Commission may deny a marijuana handler permit application, unless the applicant shows good cause to overcome the denial criteria, if the applicant:
 - (a) Has been convicted of a felony, except for a felony described in section 20(4)(a), chapter 614, Oregon Laws 2015;
 - (b) Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or
 - (c) Makes a false statement to the Commission.
- (3) If the Commission denies an application under subsection (2)(b) or (c) of this rule the individual may not reapply within two years of the date the Commission received the application.
- (4) A Notice of Denial must be issued by the Commission in accordance with ORS 183.

Stat. Auth.: Sections 19 and 20, chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 19 and 20, chapter 614, Oregon Laws 2015

845-025-5560

Marijuana Handler Course Education and Examination Requirements

- (1) An individual must, prior to applying for a marijuana handler permit complete an approved marijuana handler education course, pass the required examination, and pay the fee specified in OAR 845-025-1060;
- (2) An individual must score at least 70 percent on the marijuana handler course examination in order to pass.
 - (a) An individual who does not pass the examination may retake the examination up to two times within 90 days of the date the individual took the course. If the individual fails to pass both retake examinations the individual must retake the handler education course.
- (3) An individual must take a marijuana handler education course at least every five years prior to applying for renewal of a marijuana handler permit.
- (4) The Commission may require additional education or training for permit holders at any time, with adequate notice to permit holders.

Stat. Auth.: Sections 19 and 20, chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 19 and 20, chapter 614, Oregon Laws 2015

845-025-5580**Marijuana Handler Renewal Requirements**

- (1) An individual must renew his or her marijuana handler permit every five years by submitting a renewal application, prescribed by the Commission and the applicable fee specified in OAR 845-025-1060.
- (2) Renewal applications will be reviewed in accordance with OAR 845-025-5520 and 845-025-5540.

Stat. Auth.: Sections 19 and 20, chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 19 and 20, chapter 614, Oregon Laws 2015

845-025-5590**Suspension or Revocation**

- (1) The Commission may suspend or cancel the permit of any marijuana handler if the handler:
 - (a) Has been convicted of a felony, except for a felony described in section 20, chapter 614, Oregon Laws 2015(4)(a);
 - (b) Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or
 - (c) Makes a material false statement to the Commission.
- (2) If an individual's permit is canceled under sections (1)(b) or (c) of this rule the individual may not reapply within two years from the date a final order of revocation is issued.
- (3) A notice of suspension or revocation must be issued by the commission in accordance with ORS 183.

Stat. Auth.: Sections 19 and 20, chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 19 and 20, chapter 614, Oregon Laws 2015

TESTING

845-025-5700

Licensee Testing Requirements

- (1) Licensees are required to test marijuana items in accordance with OAR 333-007-0300 to 333-007-0490.
- (2) A licensee may not sell or transfer a marijuana item:
 - (a) That is required to be tested before being sold or transferred unless the required testing has been performed by a licensed laboratory; or
 - (b) That is from a batch that has failed a test and the batch has not been retested in accordance with OAR 333-007-0460 and subsequently passed the required testing .
- (3) A violation of this rule is a Category I violation.

Stat. Auth.: Section 91 and 92, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 91 and 92, chapter 614, Oregon Laws 2015

845-025-5720

Labeling, Storage, and Security of Pre-Tested Marijuana Items

- (1) Following samples being taken from a harvest or process lot a licensee must:
 - (a) Label the harvest or process lot with the following information:
 - (A) The laboratory doing the samples;
 - (B) The test batch samples numbers, once known;
 - (C) The date the samples were taken;
 - (D) The harvest or process lot number;
 - (E) The licensee's license number; and
 - (F) In bold, capital letters, no smaller than 12 point font, "PRODUCT NOT TESTED".
 - (b) Store and secure the harvest or process lot in a manner that prevents the product from being tampered with or sold prior to test results being reported.
- (2) A harvest or process lot may be stored in more than one receptacle as long as the labeling requirements are met.
- (3) If the samples pass testing the product may be sold in accordance with the applicable Commission rules.
- (4) If the samples do not pass testing the licensee must comply with OAR 845-025-5740.

Stat. Auth.: Section 91 and 92, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 91 and 92, chapter 614, Oregon Laws 2015

845-025-5740

Failed Test Samples

- (1) If a sample fails any initial test the licensee may have samples retested in accordance with OAR 333-007-0460.
- (2) Failed microbiological contaminant testing.

(a) If a sample from a batch of usable marijuana fails microbiological contaminant testing the batch may be used to make a cannabinoid concentrate or extract if the processing method effectively sterilizes the batch such as a method using a hydrocarbon based solvent or a CO₂ closed loop system.

(b) If a sample from a batch of a cannabinoid concentrate or extract fails microbiological contaminant testing the batch may be further processed if the processing method effectively sterilizes the batch such as a method using a hydrocarbon based solvent or a CO₂ closed loop system.

(c) A batch that is sterilized in accordance with subsection (a) or (b) of this section must be resampled and retested in accordance with OAR 333-007-0460 and must be tested if not otherwise required for that product, for microbiological contaminants, solvents and pesticides.

(3) Failed solvent testing.

(a) If a sample from a batch fails solvent testing the batch may be re-processed using procedures that would reduce the concentration of solvents to less than the action level.

(b) A batch that is re-processed in accordance with subsection (a) of this section must be resampled and retested in accordance with OAR 333-007-0460 and must be tested if not otherwise required for that product, for microbiological contaminants, solvents and pesticides.

(4) Failed water activity testing.

(a) If a sample from a batch of usable marijuana fails for water activity the batch from which the sample was taken may continue to dry or cure.

(b) A batch that undergoes additional drying or curing as described in subsection (a) of this section must be resampled and retested in accordance with OAR 333-007-0460.

(5) Failed pesticide testing.

(a) If a sample from a batch fails pesticide testing the batch must be destroyed, in accordance with OAR 845-025-7750, except as provided in subsection (b) of this section, or re-tested in accordance with OAR 333-007-0460.

(b) A licensee may request approval from the Commission, in writing, to remediate a batch of usable marijuana that failed pesticide testing. Such a request must include detailed information about the remediation process and proof that the remediation process will reduce the concentration of pesticides to less than the action level.

(c) If the Commission approves the request the batch must be resampled and retested after the remediation, in accordance with OAR 333-007-0300 to 333-007-0490 and must be tested if not otherwise required for that product, for microbiological contaminants, solvents and pesticides.

(6) If a sample fails a retest required under sections (2), (3) and (5) of this rule for microbiological contaminants, solvents or pesticides a licensee must destroy or dispose of the batch.

(7) A regulatory specialist must witness the destruction or disposal of a batch if destruction or disposal is required by this rule.

(8) A licensee must inform a laboratory prior to samples being taken that the batch is being resampled and retested after an initial failed test.

(9) A licensee must, as applicable:

(a) Have detailed procedures for sterilization processes to remove microbiological contaminants and for reducing the concentration of solvents or pesticides.

(b) Document, in CTS, all resampling, retesting, sterilization, re-processing, remediation and destruction or disposal.

Stat. Auth.: Section 91 and 92, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 91 and 92, chapter 614, Oregon Laws 2015

845-025-5760

Audit Testing or Compliance Testing

(1) The Commission may require a licensee to have samples from a harvest or process lot submitted to a laboratory for testing in order to determine whether the licensee is in compliance with OAR 333-007-0300 to 333-007-0490 and these rules, at the licensee's expense.

(2) Audit testing must comply with OAR 333-007-0300 to 333-007-0490 and any applicable ORELAP rules.

(3) The Commission may initiate an investigation of a licensee upon receipt of a tentatively identified compounds report from a laboratory, reported in accordance with OAR 333-064-0100 and may require the licensee to submit samples for additional testing, including testing for analytes that are not required by OAR 333-007-0300 to 333-007-0490, at the licensee's expense.

Stat. Auth.: Section 91 and 92, chapter 614, Oregon Laws 2015

Stats. Implemented: Section 91 and 92, chapter 614, Oregon Laws 2015

PACKAGING AND LABELING

845-025-7000

Definitions

For the purposes of OAR 845-025-7000 to 845-025-7060:

- (1) "Attractive to minors" means packaging, labeling and marketing that features:
 - (a) Cartoons;
 - (b) A design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
 - (c) Features symbols or celebrities that are commonly used to market products to minors.
- (2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.
- (3) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.
- (4) "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.
- (5)(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.
- (6) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:
 - (a) The use of comically exaggerated features;
 - (b) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or
 - (c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.
- (7) "Child resistant" means packaging that is:
 - (a) Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly as defined by 16 CFR 1700.20 (1995); and
 - (b) Resealable for any cannabinoid concentrate or extract, or cannabinoid product, intended for more than a single use or containing multiple servings.
- (8) "Consumer":
 - (a) Has the meaning given that term in section 1, chapter 614, Oregon Laws 2015; or
 - (b) Means a patient or designated primary caregiver receiving a transfer from a medical marijuana dispensary.
- (9) "Container" means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed prior to being sold to a consumer.
- (10) "Exit Package" means a sealed container provided at the retail point of sale in which any marijuana items already within a container are placed.
- (11) "Licensee" has the meaning given that term in OAR 845-025-1015.

(12)(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.

(13) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(14) "Processing" means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(15) "Producing" means:

- (a) Planting, cultivating, growing, trimming or harvesting marijuana; or
- (b) Drying marijuana leaves and flowers.

(16) "Registrant" means a person registered with the Authority under ORS 475.304, 475.314, or section 85, chapter 614, Oregon Laws 2015.

(17)(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.

Stat. Auth.: Section 103, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 100, Chapter 614, Oregon Laws 2015

845-025-7020

Packaging for Sale to Consumer

(1) The purpose of this rule is to set the minimum standards for the packaging of marijuana items that are sold to the consumer, applicable to:

- (a) A licensee; or
- (b) On and after April 1, 2016, a registrant who is not exempt from the labeling requirements.

(2) Containers or packaging for marijuana items must protect a marijuana item from contamination and must not impart any toxic or deleterious substance to the marijuana item.

(3) Marijuana items for ultimate sale to a consumer must:

- (a) Be packaged in a container that is child-resistant;
- (b) Not be packaged or labeled in a manner that is attractive to minors; and
- (c) Be labeled in accordance with OAR 333-007-0010 to 333-007-0100.

(4) Packaging may not contain any text that makes an untruthful or misleading statement.

(5) Nothing in this rule:

- (a) Prevents the re-use of packaging that is capable of continuing to be child-resistant, as permitted by rules established by the Commission or the Authority; or
- (b) Prohibits the Commission or the Authority from imposing additional packaging requirements in their respective rules governing licensees and registrants.

Stat. Auth.: Section 103, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 12, 14, 15, 16 and 103, Chapter 614, Oregon Laws 2015

845-025-7040**Wholesaler and Retailer Packaging and Labeling Compliance Requirements**

(1) If a wholesaler or a retailer receives a marijuana item that is not packaged or labeled in accordance with OAR 845-025-7000 to 845-025-7060 or OAR 333-007-0010 to 333-007-0100 the wholesaler or retailer must notify the Commission and return the marijuana item to the licensee who transferred the wholesaler or retailer the marijuana item. The wholesaler or retailer must document the return and the reason for the return in the tracking system.

(2) Sale of a marijuana item that is not packaged and labeled in accordance with OAR 845-025-7000 to 845-025-7060 and OAR 333-007-0010 to 333-007-0100 is a category III violation.

Stat. Auth.: Section 103, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 15, 16 and 103, Chapter 614, Oregon Laws 2015

845-025-7060**Packaging and Labeling Pre-approval Process**

(1) Prior to a marijuana item being sold to a consumer, a licensee or a registrant, if pre-approval is required by the Authority, packaging marijuana items for ultimate sale to a consumer must submit a prototype of the packaging complete with labels affixed to the package for pre-approval by the Commission, subject to the exceptions in sections (6) to (8) of this rule, the packaging and labels must be accompanied by the following:

(a) A fee as specified in OAR 845-025-1060; and

(b) Information including but not limited to:

(A) The licensee's license number or the registrant's registration number; and

(B) A picture of and description of the item to be placed in the package.

(2) The commission will evaluate the packaging and label in order to determine whether:

(a) The packaging:

(a) Is child resistant.

(b) Is marketed in a manner attractive to minors.

(c) Contains untruthful or misleading content.

(d) If the packaging is for a cannabinoid edible or other cannabinoid products, is attractive to minors.

(b) The label complies with the Authority's labeling rules, OAR 333-007-0010 to 333-007-0100.

(3) The commission must review the packaging and labeling and notify the licensee or registrant whether the packaging and labeling is approved and if not approved, a description of the packaging or labeling deficiencies.

(4) If a licensee or registrant's packaging or labeling is deficient it must correct the deficiencies and resubmit the packaging for pre-approval, but the licensee or registrant is not required to submit an additional fee unless the packaging is found deficient for a second time in which case the licensee must resubmit the packaging or labeling in accordance with subsection (1) of this rule.

(5) If the label affixed to the package is not compliant with OAR 333-007-0010 to 333-007-0100 the package will not be approved.

(6) Packages and labels that have been previously approved do not need to be resubmitted if the only changes to the packaging or label are:

(a) Changes in the:

- (A) Harvest or processing date;
- (B) Strain;
- (C) Test results;
- (D) Net weight or volume; or
- (E) Harvest or process lot numbers.

(b) The deletion of any non-mandatory label information.

(c) The addition, deletion or change in the:

- (A) UPC barcodes or 2D mobile barcodes (QR codes); or
- (B) Website address, phone number, fax number, or zip code of the licensee or registrant.

(d) The repositioning of any label information on the package.

(7) The Commission must publish a list of previously approved commercially available packaging. Packaging identified on this list as approved for certain product types does not need to be submitted for approval if used for the type of product for which it is approved and the packaging does not contain any graphics, pictures or logos.

(8) Labels for marijuana items do not require pre-approval if they contain only the information required by OAR 333-007-0010 to 333-007-0100 and have no graphics, pictures or logos.

(9) Notwithstanding any provisions of this rule, the Commission may permit or require electronic submission of labels and packaging for approval.

Stat. Auth.: Sections 102 and 104, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 102 and 104, Chapter 614, Oregon Laws 2015

SEED-TO-SALE TRACKING

845-025-7500 CTS Requirements

- (1) A licensee must:
 - (a) Use CTS as the primary inventory and recording keeping system.
 - (b) Have a CTS account activated and functional prior to operating or exercising any privileges of the license and must maintain an active account while licensed.
- (2) A licensee must have at least one license holder who is a CTS Administrator and a licensee may authorize additional license holders or licensee representatives to obtain Administrator accounts.
- (3) In order to obtain a CTS Administrator account, a license holder must attend and successfully complete all required CTS training. The Commission may also require additional ongoing, continuing education for an individual to retain his or her CTS Administrator account.
- (4) A licensee may designate licensee representatives as CTS Users. A designated user must be trained by a CTS Administrator in the proper and lawful use of CTS.
- (5) A licensee must:
 - (a) Maintain an accurate and complete list of all CTS Administrators and CTS Users for each Licensed Premises and must update the list when a new CTS User is trained.
 - (b) Train and authorize any new CTS Users before those Users are permitted to access CTS or input, modify, or delete any information in CTS.
 - (c) Cancel any CTS Administrator or User from an associated CTS account if that individual is no longer a licensee representative or the Administrator or User has violated OAR 845-025-7500 to 845-025-7590 .
 - (d) Correct any data that is entered into CTS in error.
- (6) A licensee is accountable for all actions licensee representatives take while logged into CTS or otherwise conducting inventory tracking activities.
- (7) Nothing in this rule prohibits a licensee from using secondary separate software applications to collect information to be used by the business including secondary inventory tracking or point of sale systems. Secondary software applications must use CTS data as the primary source of data and must be compatible with updating to CTS. If a licensee uses a separate software application it must get approval from the vendor contracting with the Commission to provide CTS and the software application must :
 - (a) Accurately transfer all relevant CTS data to and from CTS for the purposes of reconciliations with any secondary systems.
 - (b) Preserve original CTS data when transferred to and from a secondary application.
- (8) If at any point a licensee loses access to CTS for any reason, the licensee must keep and maintain comprehensive records detailing all tracking inventory activities that were conducted during the loss of access.
 - (a) Once access is restored, all inventory tracking activities that occurred during the loss of access must be entered into CTS.
 - (b) A licensee must document when access to the system was lost and when it was restored.
 - (c) A licensee may not transport any marijuana items to another licensed premises until such time as access is restored and all information is recorded into CTS.

Stat. Auth.: Sections 2, 12, 14, 15, and 16, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 23, Chapter 614, Oregon Laws 2015

845-025-7520 **Unique Identification (UID) Tags**

A licensee must:

- (1) Use UID tags issued by a Commission-approved vendor that is authorized to provide UID tags for CTS. Each licensee is responsible for the cost of all UID tags and any associated vendor fees.
- (2) Have an adequate supply of UID tags at all times.
- (3) Properly tag all inventory that is required to have a UID tag.
- (4) Place tags in a position that can be clearly read by an individual standing next to the item and the tag must be kept free from dirt and debris.

Stat. Auth.: Sections 2, 12, 14, 15, and 16, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 23, Chapter 614, Oregon Laws 2015

845-025-7540 **CTS User Requirements**

- (1) A licensee and any designated CTS Administrator or User shall enter data into CTS that fully and transparently accounts for all inventory tracking activities.
- (2) A licensee is responsible for the accuracy of all information entered into CTS.
- (3) An individual entering data into the CTS system may only use that individual's CTS account. Each CTS Administrator and CTS User must have a unique log-on and password, which may not be used by any other person.
- (4) A violation of this rule is a Category III violation. Intentional misrepresentation of data entered into the CTS system is a Category I violation.

Stat. Auth.: Sections 2, 12, 14, 15, and 16, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 23, Chapter 614, Oregon Laws 2015

845-025-7560 **System Notifications**

A licensee must:

- (1) Monitor all compliance notifications from CTS and resolve the issues detailed in the compliance notification in a timely fashion. A licensee may not dismiss a compliance notification in CTS until the licensee resolves the compliance issues detailed in the notification.
- (2) Take appropriate action in response to informational notifications received through CTS, including but not limited to notifications related to UID billing, enforcement alerts, and other pertinent information.

Stat. Auth.: Sections 2, 12, 14, 15, and 16, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 23, Chapter 614, Oregon Laws 2015

845-025-7580
Reconciliation with Inventory

A licensee must:

- (1) Use CTS for all inventory tracking activities at a licensed premises.
- (2) Reconcile all on-premises and in-transit marijuana item inventories each day in CTS at the close of business.

Stat. Auth.: Sections 2, 12, 14, 15, and 16, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 23, Chapter 614, Oregon Laws 2015

845-025-7590
Inventory Audits

The Commission may perform a physical audit of the inventory of any licensee at the agency's discretion and with reasonable notice to the licensee. Variances between the physical audit and the inventory reflected in CTS at the time of the audit, which cannot be attributed to normal moisture variation in usable marijuana are violations. The Commission may impose a civil penalty, suspend or cancel a licensee for violation of this section.

Stat. Auth.: Sections 2, 12, 14, 15, and 16, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 6, Chapter 614, Oregon Laws 2015

TRANSPORTATION AND DELIVERY

845-025-7700

Transportation and Delivery of Marijuana Items

- (1) Marijuana items may only be transferred between licensed premises by a licensee or licensee representative.
- (2) An individual authorized to transport marijuana items must have a valid Oregon Driver's License;
- (3) A licensee must:
 - (a) Use a vehicle for transport that is:
 - (A) Insured at or above the legal requirements in Oregon;
 - (B) Capable of securing (locking) the marijuana items during transportation; and
 - (C) Capable of being temperature controlled if perishable marijuana items are being transported.
 - (b) Using CTS, generate a printed transport manifest that accompanies every transport of marijuana items that contains the following information:
 - (A) The name, contact information of a licensee representative, licensed premises address and license number of the licensee transporting the marijuana items;
 - (B) The name, contact information of the licensee representative, licensed premises address, and license number of the licensee receiving the delivery;
 - (C) Product name and quantities (by weight or unit) of each marijuana item contained in each transport, along with the UIDs for every item;
 - (D) The date of transport and approximate time of departure;
 - (E) Arrival date and estimated time of arrival;
 - (F) Delivery vehicle make and model and license plate number; and
 - (G) Name and signature of the licensee's representative accompanying the transport.
- (4) A licensee or licensee representative may transport marijuana items from an originating location to multiple licensed premises as long as each transport manifest correctly reflects specific inventory in transit and each recipient licensed premises provides the licensee with a printed receipt for marijuana items delivered
- (5) All marijuana items must be packaged in shipping containers and labeled in accordance with OAR 845-025-2880 prior to transport.
- (6) A licensee must provide a copy of the transport manifest to each licensed premises receiving the inventory described in the transport manifest, but in order to maintain transaction confidentiality, may prepare a separate manifest for each receiving licensed premises.
- (7) A licensee must provide a copy of the printed transport manifest and any printed receipts for marijuana items delivered to law enforcement officers or other representatives of a government agency if requested to do so while in transit.
- (8) A licensee must contact the commission immediately, or as soon as possible under the circumstances, if a vehicle transporting marijuana items is involved in any accident that involves product loss.
- (9) Upon receipt of inventory a receiving licensee must ensure that the marijuana items received are as described in the transport manifest.

(10) A receiving licensee must separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in CTS and in any relevant business records.

(11) A licensee must provide temperature control for perishable marijuana items during transport.

(12) Any vehicle transporting marijuana items must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other licensed premises receiving inventory.

(13) A licensee may transport marijuana for other licensees if the transporting licensee holds a wholesale license.

Stat. Auth.: Sections 2, 12, 14, 15, and 16, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 2, 12, 14, 15, and 16, Chapter 614, Oregon Laws 2015

WASTE MANAGEMENT

845-025-7750

Waste Management

(1) A licensee must:

(a) Store, manage and dispose of solid and liquid wastes generated during marijuana production and processing in accordance with applicable state and local laws and regulations which may include but are not limited to:..

- (A) Solid waste requirements in ORS 459 and OAR 340 Divisions 93 to 96;
- (B) Hazardous waste requirements in ORS 466 and OAR 340, Divisions 100 to 106; and
- (C) Wastewater requirements in ORS 468B and OAR 340, Divisions 41 to 42, 44 to 45, 53, 55 and 73.

(b) Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.

(2) A licensee may give or sell marijuana waste to a producer, processor or wholesale licensee or research certificate holder. Any such transaction must be entered into CTS pursuant to OAR 845-025-7500.

(3) In addition to information required to be entered into CTS pursuant to OAR 845-025-7500a licensee must maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana.

Stat. Auth.: Sections 2, 12 and 14, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 12, 14, 15 and 23, Chapter 614, Oregon Laws 2015

ADVERTISING

845-025-8000

Purpose and Application of Rules

- (1) The Commission serves the interests of the citizens of Oregon by regulating and prohibiting advertising marijuana items in a manner:
 - (a) That is attractive to minors;
 - (b) That promotes excessive use;
 - (c) That promotes activity that is illegal under Oregon law; or
 - (d) That otherwise presents a significant risk to public health and safety.
- (2) The Commission also serves the interests of Oregonians by allowing advertising for the purpose of informing the public of the availability and characteristics of marijuana.
- (3) All marijuana advertising by a licensee must conform to these rules.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 2, Chapter 614, Oregon Laws 2015

845-025-8020

Definitions

As used in OAR 845-025-8000 through 845-025-8080:

- (1) "Advertising" is publicizing the trade name of a licensee together with words or symbols referring to marijuana or publicizing the brand name of marijuana or a marijuana product.
- (2) "Handbill" is a flyer, leaflet, or sheet that advertises marijuana.
- (3) "Radio" means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or internet programming. Radio includes any audio programming downloaded or streamed via the internet.
- (4) "Television" means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the internet.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 2, Chapter 614, Oregon Laws 2015

845-025-8040

Advertising Restrictions

- (1) Marijuana advertising may not:
 - (a) Contain statements that are deceptive, false, or misleading;
 - (b) Contain any content that can reasonably be considered to target individuals under the age of 21, including but not limited to cartoon characters, toys, or similar images and items typically marketed towards minors;
 - (c) Specifically encourages the transportation of marijuana items across state lines;

- (d) Assert that marijuana items are safe because they are regulated by the commission or have been tested by a certified laboratory or otherwise make claims that any government agency endorses or supports marijuana;
- (e) Make claims that recreational marijuana has curative or therapeutic effects;
- (f) Display consumption of marijuana items;
- (g) Contain material that encourages the use of marijuana because of its intoxicating effect; or
- (h) Contain material that encourages excessive or rapid consumption.

(2) A marijuana retailer may not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a consumer

(3) A licensee must include the following statement on all advertising:

- (a) "Do not operate a vehicle or machinery under the influence of this drug".
- (b) "For use only by adults twenty-one years of age and older."
- (c) "Keep out of the reach of children."

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 2, Chapter 614, Oregon Laws 2015

845-025-8060

Advertising Media, Coupons, and Promotions

- (1) The Commission prohibits advertising through handbills that are posted or passed out in public areas such as parking lots and publicly owned property; and
- (2) A licensee may not utilize television, radio, print media or internet advertising unless the licensee has reliable evidence that no more than 30 percent of the audience for the program, publication or internet web site in or on which the advertising is to air or appear is reasonably expected to be under the age of 21.
- (3) A licensee may not engage in advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 2, Chapter 614, Oregon Laws 2015

845-025-8080

Removal of Objectionable and Non-Conforming Advertising

- (1) A licensee must remove any sign, display, or advertisement if the Commission finds it violates these rules.
- (2) The Commission will notify the licensee and specify a reasonable time period for the licensee to remove any sign, display or advertisement that the Commission finds objectionable.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 2, Chapter 614, Oregon Laws 2015

INVESTIGATION AND ENFORCEMENT

845-025-8500

Responsibility of Licensee, Responsibility for Conduct of Others

Each licensee is responsible for violations of any provision of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2014, or chapter 699, Oregon Laws 2015, affecting the licensed privileges, or these rules and for any act or omission of a licensee representative that violates any law, administrative rule, or regulation affecting the licensed privileges.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 2, Chapter 614, Oregon Laws 2015

845-025-8520

Prohibited Conduct

(1) Sale to a Minor. A licensees or permittee may not sell, deliver, transfer or make available any marijuana item to a person under 21 years of age.

(a) Violation of this section for an intentional sale to a minor by a licensee, permittee or license representative is a Category II violation.

(b) Violation for this section for other than intentional sales is a Category III violation.

(2) Identification. A licensee or license representative must require a person to produce identification as required by Section 24, Chapter 614, Oregon Laws 2015 before selling or providing a marijuana item to that person. Violation of this section is a Category IV violation.

(3) Access to Premises. A licensee or permittee may not:

(a) During regular business hours for the licensed premises, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and who enters or wants to enter a licensed premises to conduct an inspection to ensure compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2014, or chapter 699, Oregon Laws 2015, affecting the licensed privileges, or these rules;

(b) Outside of regular business hours or when the premises appear closed, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and requests entry on the basis that there is a reason to believe a violation of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2014, or chapter 699, Oregon Laws 2015, affecting the licensed privileges, or these rules is occurring; or

(c) Once a regulatory specialist is on the licensed premises, ask the regulatory specialist to leave until the specialist has had an opportunity to conduct an inspection to ensure compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2014, or chapter 699, Oregon Laws 2015, affecting the licensed privileges, or these rules.

(d) Violation of this section is a Category II violation.

(4) Use or Consumption of Intoxicants on Duty and Under the Influence on Duty.

(a) No licensee, licensee representative, or permittee may consume any intoxicating substances while on duty, except for employees as permitted under OAR 845-025-1230(5)(b). Violation of this subsection is a Category III violation.

(b) No licensee, licensee representative, or permittee may be under the influence of intoxicating substances while on duty. Violation of this subsection is a Category II violation.

(c) Whether a person is paid or scheduled for a work shift is not determinative of whether the person is considered "on duty."

(d) As used in this section:

(A) "On duty" means:

(i) From the beginning to the end of a work shift for the licensed business, including any and all coffee, rest or meal breaks; or

(ii) Performing any acts on behalf of the licensee or the licensed business outside of a work shift if the individual has the authority to put himself or herself on duty.

As used in this section.

(B) "Intoxicants" means any substance that is known to have or does have intoxicating effects, and includes alcohol, marijuana, or any other controlled substances.

(5) Permitting Use of Marijuana at Licensed Premises. A licensee or permittee may not permit the use or consumption of marijuana, or any other intoxicating substance, anywhere in or on the licensed premises, or in surrounding areas under the control of the licensee, except for employees as permitted under OAR 845-025-1230(5)(b). Violation of this section is a Category III violation.

(6) Import and Export. A licensee or permittee may not import marijuana items into this state or export marijuana items out of this state. Violation of this section is a Category I violation and could result in license or permit revocation.

(7) Permitting, Disorderly or Unlawful Conduct. A licensee or permittee may not permit disorderly activity or activity that is unlawful under Oregon state law on the licensed premises or in areas adjacent to or outside the licensed premises under the control of the licensee.

(a) If the prohibited activity under this section results in death or serious physical injury, or involves unlawful use or attempted use of a deadly weapon against another person, or results in a sexual offense which is a Class A felony such as first degree rape, sodomy, or unlawful sexual penetration, the violation is a Category I violation and could result in license or permit revocation.

(b) If the prohibited activity under this section involves use of a dangerous weapon against another person with intent to cause death or serious physical injury, it is a Category II violation.

(c) As used in this section:

(A) "Disorderly activities" means activities that harass, threaten or physically harm oneself or another person.

(B) "Unlawful activity" means activities that violate the laws of this state, including but not limited to any activity that violates a state criminal statute.

(d) The Commission does not require a conviction to establish a violation of this section except as section 13(1)(f), chapter 614, Oregon Laws 2015 requires.

(8) Marijuana as a Prize, Premium or Consideration. No licensee or permittee may give or permit the giving of any marijuana item as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premises. .

(9) Visibly Intoxicated Persons. No licensee or permittee may sell, give, or otherwise make available any marijuana item to any person who is visibly intoxicated. Violation of this section is a Category III violation.

(10) Additional Prohibitions. A licensee or permittee may not:

(a) Sell or deliver any marijuana item through a drive-up window.

- (b) Sell or offer for sale any marijuana item for a price per item that is less than the licensee's cost for the marijuana item;
- (c) Use any device or machine that both verifies the age of the consumer and delivers marijuana to the consumer; or
- (d) Deliver marijuana to a consumer off the licensed premises, except that retail licensees may provide delivery as set forth in OAR 845-025-2880.
- (e) Violation of this subsection is a Category III violation.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015

Stats. Implemented: Sections 12, 14, 15, 16, 48, 49 and 50, Chapter 614, Oregon Laws 2015

845-025-8540

Dishonest Conduct

(1) False Statements. A licensee or permittee may not:

- (a) Make a false statement or representation to the Commission or law enforcement in order to induce or prevent action or investigation by the Commission or law enforcement. Violation of this subsection is a Category II violation.
- (b) If the Commission finds that the false statement or representation was intentional, the Commission may charge the violation as a Category I violation and could result in license or permit revocation.

(2) Marijuana Item Misrepresentations.

- (a) A licensee or permittee may not misrepresent any marijuana item to a consumer, licensee, or the public, including:
 - (A) Misrepresenting the contents of a marijuana item;
 - (B) Misrepresenting the testing results of a marijuana item;
 - (C) Misrepresenting the potency of a marijuana item; or
 - (D) Making representations or claims that the marijuana item has curative or therapeutic effects..

(b) A licensee may not treat or otherwise adulterate usable marijuana with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell in violation of OAR 845-025-1300.

- (c) A knowing or intentional violation of this section is a Category I violation and could result in license or permit revocation.
- (d) Violation of this section in any manner other than knowing or intentional is a Category II violation.

(3) Supply of Adulterated Marijuana Items.

- (a) A licensee may not supply adulterated marijuana items.
- (b) Violation of this section is a Category I violation and could result in license revocation.

(4) Evidence. A licensee or permittee may not:

- (a) Intentionally destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so. Violation of this subsection is a Category I violation and could result in license cancellation.

- (b) Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so, in any manner other than intentional. Violation of this subsection is a Category II violation.
- (c) Refuse to give, or fail to promptly give, a Commission regulatory specialist or law enforcement officer evidence when lawfully requested to do so. Violation of this subsection is a Category II violation.

Stat. Auth.: Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 51, Chapter 614, Oregon Laws 2015

845-025-8560

Inspections

- (1) The commission may conduct:
 - (a) A complaint inspection at any time following the receipt of a complaint that alleges a licensee or permittee is in violation of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, chapter 699, Oregon Laws 2015, or these rules;
 - (b) An inspection at any time if it believes, for any reason, that a licensee or permittee is in violation of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, chapter 699, Oregon Laws 2015, or these rules; or
 - (c) Compliance transactions in order to determine whether a licensee or permittee is complying with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, chapter 699, Oregon Laws 2015, or these rules.
- (2) A licensee, licensee representative, or permittee must cooperate with the Commission during an inspection.
- (3) If licensee, licensee representative or permittee fails to permit the Commission to conduct an inspection the Commission may seek an investigative subpoena to inspect the premises and gather books, payrolls, accounts, papers, documents or records.

Stat. Auth.: Sections 2, 12, 14, 15 and 16, Chapter 614, Oregon Laws 2015
Stats. Implemented: Section 30, Chapter 614, Oregon Laws 2015

845-025-8580

Suspended Licenses: Posting of Suspension Notice Sign, Activities Allowed During Suspension

- (1) Before 7:00 a.m. on the date a license suspension goes into effect, and until the suspension is completed, Commission staff must ensure that a suspension notice sign is posted on each outside entrance or door to the licensed premises.
- (2) The suspension notice sign must be posted in a way that allows any person entering the premises to read it. Licensees must use the suspension notice sign provided by the Commission. The sign will state that the license has been suspended by order of the Commission due to violations of the recreational marijuana laws (statutes or administrative rule) of Oregon. If there are multiple licenses at the location, the sign will specify which license privileges have been suspended.

(3) During the period of license suspension, the licensee is responsible for ensuring:

- (a) Compliance with all applicable laws and rules; and
- (b) That the suspension notice sign is not removed, altered, or covered.

(4) A licensee or licensee representative may not allow the sale, delivery to or from, or receipt of marijuana items at the licensed premises during the period of time that the license is under suspension. During a period of time that the license is under suspension, a recreational marijuana licensee may operate the business provided there is no sale, delivery to or from, or receipt of a marijuana item.

(5) Sanction:

- (a) A violation of section (4) of this rule is a Category I violation.
- (b) A violation of sections (2) or (3)(b) of this rule is a Category IV violation.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 29, Chapter 614, Oregon Laws 2015

845-025-8590

Suspension, Cancellation, Civil Penalties, Sanction Schedule

(1) The Commission may suspend or cancel:

- (a) A license under section 9, Chapter 614, Oregon Laws, 2015.
- (b) A marijuana handlers permit under section 20, Chapter 614, Oregon Laws, 2015.
- (c) A research certificate under section 113, Chapter 614, Oregon Laws, 2015.

(2) The Commission may impose a civil penalty not to exceed \$5,000 under section 29, Chapter 614, Oregon Laws 2015. Civil penalties will be calculated by multiplying:

- (a) The number of days in a suspension, if suspension could be or is being imposed, by \$165 for licensees or certificate holders; or
- (b) The number of days in a suspension, if suspension could be or is being imposed, by \$25 for permittees.

(3) Violation Categories:

- (a) The Commission has the following violation categories:
 - (A) Category I -- Violations that make licensee ineligible for a license;
 - (B) Category II -- Violations that create a present threat to public health or safety;
 - (D) Category III -- Violations that create a potential threat to public health or safety
 - (E) Category IV -- Violations that create a climate conducive to abuses associated with the sale or manufacture of marijuana items;
 - (F) Category V -- Violations inconsistent with the orderly regulation of the sale or manufacture of marijuana items.
- (b) A proposed sanction schedule for the first and subsequent violations within a two-year period within each violation category is listed in Exhibit 1, incorporated by reference.
- (c) If the Commission finds aggravating or mitigating circumstances, it may assess a greater or lesser sanction from the proposed sanctions listed in Exhibit 1. Mitigating and aggravating circumstances include but are not limited to:
 - (A) Good faith efforts by a licensee, permittee or certificate holder to prevent a violation;

(B) Extraordinary cooperation from the licensee, permittee or certificate holder during the violation investigation that shows the licensee, permittee, or certificate holder accepts responsibility;

- (C) A prior warning about compliance problems;
- (D) Repeated failure to comply with laws;
- (E) Efforts to conceal a violation;
- (F) The violation involved more than one customer or employee;
- (G) The violation involved an individual under the age of 18; or
- (H) The violation resulted in injury or death.

(d) The Commission may always increase or decrease a sanction to prevent inequity or to take account of particular circumstances in the case.

(6) The Commission increases sanctions based on successive violations in the same category within a two-year period. For example, if a licensee, permittee, or certificate holder who has committed one Category III violation and one Category IV violation within the past two years, commits another Category III violation, the Commission assesses the sanction at the second level for the pending Class III violation. Numerous violations within the two-year period, regardless of the type, may indicate such a disregard for the law or failure to control the premises so as to warrant cancellation of the license, permit or certificate.

(7) A licensee may not avoid the sanction for a violation or the application of the provision for successive violations by changing the corporate structure for example, by adding or dropping a partner or converting to another form of legal entity when the individuals who own, operate, or control the business are substantially similar.

Stat. Auth.: Section 2, Chapter 614, Oregon Laws 2015

Stats. Implemented: Section 29, Chapter 614, Oregon Laws 2015

Exhibit 1, OAR 845-025-8590

Oregon Liquor Control Commission

Recreational Marijuana Sanctions

Category	1st	2nd	3rd	4th	5th	6th	7th
I	Cancel						
II	30 days	Cancel					
III	10 days or \$1650	30 days or \$4950	30 days	Cancel			
IV	7 days or \$1155	10 days or \$1650	20 days or \$3300	30 days	Cancel		
V	3 days or \$495	7 days or \$1155	10 days or \$1650	20 days or \$3300	30 days	Cancel	

Categories for Most Common Violations

Category	Violation
I	Conviction of a felony Operating other than the license permits Intentional false statement to the Commission Intentional destruction or concealment of evidence
II	Permitted noisy, disorderly or unlawful activity that results in death or serious physical injury, or that involves unlawful use or attempted use of a deadly weapon against another person, or that results in a sexual offense which is a Class A felony, such as first degree rape, sodomy, or unlawful sexual penetration Failure to notify prior to complete change of ownership/allowed interest in licensed business without prior Commission approval Operated licensed business while suspended

Category	Violation
II	False statement or representation to Commission Destruction or concealment of evidence (other than intentional)
	Failure to promptly admit regulatory specialist or law enforcement into licensed retail premises Under the influence of intoxicants while on duty Failure to verify the age of a minor (intentional)
	Denial of access by law enforcement or regulatory specialist to the licensed premises during regular business hours Permitted noisy, disorderly or unlawful activity that involves use of a dangerous weapon against another person with intent to cause death or serious physical injury
	Failure to promptly admit regulatory specialist or law enforcement onto the licensed premises when premises appear closed (for producer, processor, wholesale or lab licensees, and research certificate holders) Failure to permit premises or records inspection

Category	Violation
----------	-----------

III	Permitted minor to enter or remain in a prohibited area
	Conviction of a crime other than a felony (licensee)
	Permitted sales by an employee without a marijuana handler permit
	Sold or made recreational marijuana available to a visibly intoxicated person
	Failure to verify the age of a minor (other than intentional)
	Consumption of marijuana, alcohol or other intoxicants while on duty
	Permitted consumption (by employees, customers or the public) of alcohol, marijuana or other intoxicants on the licensed premises or in areas adjacent to the licensed premises under licensee's control (such as parking lots)
	Failure to keep required records (other than as required in 845-025-7500, seed-to-sale tracking requirements)
	Permitted disorderly activity
	Permitted unlawful (under state law) activity

Category	Violation
IV	Operated the licensed business after lawful hours for sale of marijuana items (retail licensees)
	Removed, altered or covered license suspension or other required notice sign
	Advertising violations

Category	Violation
V	Permitted marijuana items to be given as a prize (retail licensees)
	Failure to notify the Commission of a temporary closure of the licensed business (all licenses and certificates)