

**PROPOSED AMENDMENTS TO
HOUSE BILL 3371**

1 On page 1 of the printed bill, line 4, delete “appropriating money; de-
2 claring an emergency” and insert “prescribing an effective date”.

3 Delete lines 7 through 25 and delete pages 2 through 22 and insert:

4 **“SECTION 1. Short title. Sections 1 to 47 of this 2013 Act shall be**
5 **known and may be cited as the Control, Regulation and Taxation of**
6 **Cannabis Act.**

7 **“SECTION 2. Purposes and limitations. (1) The Legislative Assem-**
8 **bly finds and declares that:**

9 **“(a) Marijuana is not a controlled substance under ORS chapter 475;**

10 **“(b) The regulation of marijuana shall be modeled after the regu-**
11 **lation of liquor under ORS chapter 471; and**

12 **“(c) The applicability of crimes in this state related to manufac-**
13 **turing, delivering or possessing marijuana shall be limited to persons**
14 **under 21 years of age or, for delivery of marijuana, to persons who**
15 **deliver marijuana to persons under 21 years of age.**

16 **“(2) The purposes of sections 1 to 47 of this 2013 Act are:**

17 **“(a) To establish a comprehensive state policy concerning Cannabis,**
18 **which includes marijuana and industrial hemp, under existing state**
19 **law;**

20 **“(b) To protect the safety, welfare, health and peace of the people**
21 **of this state by better prioritizing the state’s limited law enforcement**
22 **resources;**

1 “(c) To eliminate the problems caused by the prohibition and un-
2 controlled manufacture, delivery and possession of marijuana in this
3 state; and

4 “(d) To ensure that the State Department of Agriculture issues in-
5 dustrial hemp licenses and agricultural hemp seed production permits
6 in accordance with existing law.

7 “(3) Sections 1 to 47 of this 2013 Act may not be construed:

8 “(a) To amend or affect in any way the definition or interpretation
9 of the term ‘controlled substance’:

10 “(A) In any statute or rule that applies to the operation of a vehi-
11 cle, boat or aircraft, including the Oregon Vehicle Code and ORS
12 chapters 830 and 837; or

13 “(B) In any other statute or rule that does not expressly refer to
14 the definition of ‘controlled substance’ in ORS 475.005;

15 “(b) To prohibit an employer from prohibiting the manufacture,
16 delivery, possession or use of marijuana in the workplace;

17 “(c) To amend or affect any state or federal law relating to tenancy;

18 “(d) To prohibit a recipient of a federal grant or an applicant for a
19 federal grant from prohibiting the manufacture, delivery, possession
20 or use of marijuana to the extent necessary to satisfy federal require-
21 ments for the grant;

22 “(e) To prohibit a party to a federal contract or a person applying
23 to be a party to a federal contract from prohibiting the manufacture,
24 delivery, possession or use of marijuana to the extent necessary to
25 comply with the terms and conditions of the contract or to satisfy
26 federal requirements for the contract;

27 “(f) To require a person to violate a federal law;

28 “(g) To exempt a person from a federal law or obstruct the
29 enforcement of a federal law; or

30 “(h) To amend or affect in any way the Oregon Medical Marijuana

1 **Act.**

2 “(4) Consistent with subsections (1) to (3) of this section, it is the
3 policy of this state to encourage the development of all industries.

4 **“SECTION 3. Definitions. As used in sections 1 to 47 of this 2013
5 Act:**

6 “(1) ‘Consumer’ means a person who purchases, acquires, owns,
7 holds or uses marijuana or marijuana-infused products other than for
8 the purpose of resale in the regular course of business.

9 “(2) ‘Deliver’ or ‘delivery’ has the meaning given that term in ORS
10 475.005.

11 “(3) ‘Homegrown’ or ‘homemade’ means produced for noncommer-
12 cial purposes.

13 “(4) ‘Manufacture’ has the meaning given that term in ORS 475.005.

14 “(5)(a) ‘Marijuana’ means:

15 “(A) All parts of the plant Cannabis family Moraceae;

16 “(B) Resin extracted from a part of the plant; or

17 “(C) A compound, manufacture, salt, derivative, mixture or prepa-
18 ration of the plant or the resin extracted from a part of the plant.

19 “(b) ‘Marijuana’ does not include:

20 “(A) The mature stalks of the plant Cannabis family Moraceae;

21 “(B) Fiber produced from the stalks of the plant;

22 “(C) Oil or cake made from the seeds of the plant;

23 “(D) A compound, manufacture, salt, derivative, mixture or prepa-
24 ration of the mature stalks of the plant, fiber produced from the stalks
25 of the plant or oil or cake made from the seeds of the plant, unless
26 the compound, manufacture, salt, derivative, mixture or preparation
27 is of the resin extracted from the mature stalks of the plant;

28 “(E) A sterilized seed of the plant that is incapable of germination;
29 or

30 “(F) Industrial hemp, as defined in ORS 571.300, or industrial hemp

1 **commodities or products.**

2 **“(6)(a) ‘Marijuana-infused products’ means products that contain**
3 **marijuana or marijuana extracts and that are intended for human**
4 **consumption.**

5 **“(b) ‘Marijuana-infused products’ does not include marijuana.**

6 **“(7) ‘Marijuana processor’ means a person who processes marijuana**
7 **or marijuana-infused products in this state.**

8 **“(8) ‘Marijuana producer’ means a person who produces marijuana**
9 **in this state.**

10 **“(9) ‘Marijuana retailer’ means a person who sells marijuana or**
11 **marijuana-infused products to a consumer in this state.**

12 **“(10) ‘Marijuana wholesaler’ means a person who purchases**
13 **marijuana or marijuana-infused products in this state for resale to a**
14 **person other than a consumer in this state.**

15 **“(11) ‘Noncommercial’ means not dependent or conditioned upon**
16 **the provision or receipt of financial consideration.**

17 **“(12) ‘Premises’ means:**

18 **“(a) All enclosed areas at a location that are used for the pro-**
19 **duction, processing or retail sale of marijuana or marijuana-infused**
20 **products; and**

21 **“(b) All outside areas at a location that are used for the production,**
22 **processing or retail sale of marijuana or marijuana-infused products.**

23 **“(13) ‘Process’ includes the processing, packaging, repackaging, la-**
24 **beling or relabeling of marijuana, marijuana-infused products or any**
25 **container of marijuana or marijuana-infused products.**

26 **“(14) ‘Produce’ includes the production, manufacture, planting,**
27 **cultivation, growing or harvesting of marijuana or the production or**
28 **manufacture of marijuana-infused products.**

29 **“(15)(a) ‘Usable marijuana’ means the dried leaves and flowers of**
30 **the plant Cannabis family Moraceae, and any mixture or preparation**

1 **thereof.**

2 **“(b) ‘Usable marijuana’ does not include the seeds, stalks and roots**
3 **of the plant Cannabis family Moraceae.**

4 **“SECTION 4. Exemptions. Sections 1 to 47 of this 2013 Act do not**
5 **apply:**

6 **“(1) To the production, processing, keeping, storage or transporta-**
7 **tion of homegrown marijuana if the total amount of marijuana**
8 **produced, processed, kept, stored or transported does not exceed six**
9 **mature marijuana plants and 24 ounces of usable marijuana at a given**
10 **time;**

11 **“(2) To the production, processing, keeping, storage or transporta-**
12 **tion of homemade marijuana-infused products if the total amount of**
13 **homemade marijuana-infused products produced, processed, kept,**
14 **stored or transported does not exceed 16 ounces when in solid form;**

15 **“(3) To the production, processing, keeping, storage or transporta-**
16 **tion of homemade marijuana-infused products if the total amount of**
17 **homemade marijuana-infused products produced, processed, kept,**
18 **stored or transported does not exceed 72 ounces when in liquid form;**
19 **or**

20 **“(4) To the extent a person acts within the scope of and in compli-**
21 **ance with the Oregon Medical Marijuana Act.**

22 **“SECTION 5. Powers and duties of Oregon Liquor Control Com-**
23 **mission. (1) The Oregon Liquor Control Commission shall:**

24 **“(a) Regulate the production, possession, sale, purchase, transpor-**
25 **tation, importation and delivery of marijuana and marijuana-infused**
26 **products in accordance with sections 1 to 47 of this 2013 Act.**

27 **“(b) Grant, refuse, suspend or cancel licenses for the sale or pro-**
28 **duction of marijuana or marijuana-infused products and may permit,**
29 **in the commission’s discretion, the transfer of a license between per-**
30 **sons.**

1 “(c) Collect the taxes and duties imposed under sections 25 to 36 of
2 this 2013 Act and issue evidence of payment of taxes or duties.

3 “(d) Aid in the investigation and prosecution of violations of
4 sections 1 to 47 of this 2013 Act.

5 “(e) Adopt rules as are necessary to administer or carry out the
6 commission’s duties under sections 1 to 47 of this 2013 Act.

7 “(f) Exercise all powers incidental, convenient or necessary to ad-
8 minister or carry out the commission’s duties under sections 1 to 47
9 of this 2013 Act.

10 “(g) Regulate or prohibit advertising by marijuana producers,
11 marijuana retailers or marijuana wholesalers.

12 “(h) Regulate the use of marijuana and marijuana-infused products
13 for scientific, pharmaceutical, manufacturing, mechanical, industrial
14 or other purposes.

15 “(2) The commission may not purchase, own or sell marijuana or
16 marijuana-infused products.

17 “SECTION 6. Powers and duties of Oregon Health Authority. The
18 Oregon Health Authority shall assist and cooperate with the Oregon
19 Liquor Control Commission to the extent necessary for the commis-
20 sion to carry out the duties of the commission under sections 1 to 47
21 of this 2013 Act.

22 “SECTION 7. Powers and duties of State Department of Agricul-
23 ture. The State Department of Agriculture shall assist and cooperate
24 with the Oregon Liquor Control Commission to the extent necessary
25 for the commission to carry out the duties of the commission under
26 sections 1 to 47 of this 2013 Act.

27 “SECTION 8. Purchase and use of marijuana by member or em-
28 ployee. No provision of sections 1 to 47 of this 2013 Act prevents any
29 member or employee of the Oregon Liquor Control Commission, the
30 Oregon Health Authority or the State Department of Agriculture from

1 purchasing and keeping in possession, for the personal use of the
2 member or employee or members of the family of the member or em-
3 ployee, any marijuana or marijuana-infused products in the same
4 manner as they may be purchased or kept by any other person under
5 sections 1 to 47 of this 2013 Act.

6 **“SECTION 9. Preemption of inconsistent charters and ordinances.**
7 Sections 1 to 47 of this 2013 Act are designed to operate uniformly
8 throughout the state and preempt all municipal charter enactments
9 or local ordinances that are inconsistent with sections 1 to 47 of this
10 2013 Act.

11 **“SECTION 10. Authority of cities and counties over marijuana**
12 **retailers.** Cities and counties may adopt reasonable time, place and
13 manner ordinances for the regulation of marijuana retailers if the
14 governing body of the city or county makes specific findings that ad-
15 verse effects will otherwise occur.

16 **“SECTION 11. Licenses; federal law.** The Oregon Liquor Control
17 Commission may not refuse to issue or renew, or suspend or revoke,
18 a license issued under sections 12 to 24 of this 2013 Act on the basis
19 that producing, delivering and possessing marijuana is prohibited by
20 federal law.

21 **“SECTION 12. Oregon Liquor Control Commission’s licensing du-**
22 **ties.** (1) The Oregon Liquor Control Commission shall issue and renew
23 the licenses described in sections 14, 15, 16 and 17 of this 2013 Act in
24 the manner provided in sections 12 to 24 of this 2013 Act.

25 **“(2) Refusal to issue or renew, or suspension or revocation of, a li-**
26 **cence as provided in sections 12 to 24 of this 2013 Act is subject to the**
27 **provisions of ORS chapter 183.**

28 **“SECTION 13. Application for license; rules; fees.** (1) A person may
29 apply to the Oregon Liquor Control Commission for the issuance or
30 renewal of a license described in section 14, 15, 16 or 17 of this 2013

1 Act on a form and in a manner prescribed by the commission by rule.
2 An application submitted under this section must include the name
3 and address of the applicant, location of the premises that is to be
4 operated under the license and any other information the commission
5 may require.

6 “(2) The commission shall issue an applicant the license for which
7 the applicant applied if:

8 “(a) The applicant is in compliance with this section;

9 “(b) The commission considers the applicant qualified under section
10 14, 15, 16 or 17 of this 2013 Act;

11 “(c) For the issuance of a license, the commission considers the
12 applicant to be in compliance with section 20 of this 2013 Act; and

13 “(d) For the renewal of a license, the commission considers the
14 applicant to be in compliance with section 21 of this 2013 Act.

15 “(3) The commission shall assess a nonrefundable fee for processing
16 an application to issue a license under this section. The application
17 processing fee shall be \$250 or an amount that the commission adopts
18 by rule.

19 “(4) The annual license fee for a license issued by the commission
20 under this section shall be \$1,000 or an amount that the commission
21 adopts by rule. The license fee is nonrefundable and shall be paid by
22 each applicant upon the issuance or renewal of a license. All moneys
23 collected by the commission under this section shall be deposited into
24 the suspense account described in section 35 of this 2013 Act for the
25 purposes specified in sections 35 and 36 of this 2013 Act.

26 “SECTION 14. Production license; rules. (1) The Oregon Liquor
27 Control Commission shall adopt rules establishing the qualifications
28 of a marijuana producer.

29 “(2) A marijuana producer must have a production license issued
30 by the commission for the premises at which marijuana is produced.

1 **“SECTION 15. Processor license; rules.** (1) The Oregon Liquor Control Commission shall adopt rules establishing the qualifications of a
2 marijuana processor.
3

4 **“(2) A marijuana processor must have a processor license issued by**
5 **the commission for the premises at which marijuana or marijuana-**
6 **infused products are processed.**

7 **“SECTION 16. Wholesale license; rules.** (1) The Oregon Liquor
8 Control Commission shall adopt rules establishing the qualifications
9 of a marijuana wholesaler.

10 **“(2) A marijuana wholesaler must have a wholesale license issued**
11 **by the commission for the premises at which marijuana or**
12 **marijuana-infused products are received, kept, stored or delivered.**

13 **“SECTION 17. Retail license; rules.** (1) The Oregon Liquor Control
14 Commission shall adopt rules establishing the qualifications of a
15 marijuana retailer.

16 **“(2) A marijuana retailer must have a retail license issued by the**
17 **commission for the premises at which marijuana or marijuana-infused**
18 **products are sold.**

19 **“SECTION 18. Characteristics of license.** (1) A license issued under
20 section 13 of this 2013 Act:

21 **“(a) Shall be a personal privilege.**

22 **“(b) Shall be valid for one year as described in section 19 of this 2013**
23 **Act.**

24 **“(c) Shall be renewable as described in section 13 of this 2013 Act.**

25 **“(d) Shall be suspendible or revocable as described in section 21 of**
26 **this 2013 Act.**

27 **“(e) Shall be transferable from the premises for which the license**
28 **was originally issued to another premises, subject to sections 1 to 47**
29 **of this 2013 Act, rules adopted by the Oregon Liquor Control Commis-**
30 **sion under sections 12 to 24 of this 2013 Act and any city or county**

1 ordinance.

2 “(f) Shall cease upon the death, insolvency or bankruptcy of the
3 licensee, except as provided in subsection (2) of this section.

4 “(g) Does not constitute property.

5 “(h) In not alienable.

6 “(i) Is not subject to attachment or execution.

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

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

10 “(a) Marijuana or marijuana-infused products left by a deceased,
11 insolvent or bankrupt licensee, or subject to a security interest, may
12 be disposed of.

13 “(b) The business of a deceased, insolvent or bankrupt licensee may
14 be operated for a reasonable period following the death, insolvency or
15 bankruptcy of the licensee.

16 “(c) A license may be transferred from the premises for which the
17 license was originally issued to another premises.

18 “SECTION 19. License terms. A license issued or renewed under
19 section 13 of this 2013 Act shall be issued for a period of one year and
20 expires at midnight on the date of issuance.

21 “SECTION 20. Grounds for refusing to issue license. The Oregon
22 Liquor Control Commission may refuse to issue a license under section
23 13 of this 2013 Act if the commission finds or has reasonable ground
24 to believe any of the following:

25 “(1) That there are sufficient licensed premises in the location re-
26 quested in the application or that the granting of a license in the lo-
27 cation is not demanded by public interest or convenience. In
28 determining whether there are sufficient licensed premises in the lo-
29 cation, the commission shall consider seasonal fluctuations in the
30 population of the location and ensure that there are adequate licensed

1 premises to serve the needs of the location during peak seasons.

2 “(2) That the premises named in the application does not have de-
3 fined boundaries. The commission may require that a premises be en-
4 closed by a wall, fence or other structure as a condition of issuing a
5 license. The commission may not license premises that are mobile.

6 “(3) That the applicant:

7 “(a) Is in the habit of using alcoholic beverages, habit-forming
8 drugs or controlled substances to excess.

9 “(b) Has made false statements to the commission.

10 “(c) Is incompetent or physically unable to meet the requirements
11 of the business proposed to be licensed.

12 “(d) Has been convicted of violating any of the laws, general or lo-
13 cal, of this state if the conviction is substantially related to the fitness
14 and ability of the applicant to perform the duties of a licensee.

15 “(e) Is mentally incompetent.

16 “(f) Is not of good repute and moral character.

17 “(g) Does not have a good record of compliance with sections 1 to
18 47 of this 2013 Act or rules adopted under sections 1 to 47 of this 2013
19 Act.

20 “(h) Is not the legitimate owner of the business proposed to be li-
21 censed or has not disclosed other persons who have an ownership in-
22 terest in the business.

23 “(i) Has not demonstrated financial responsibility sufficient to ade-
24 quately meet the requirements of the business proposed to be licensed.

25 “SECTION 21. Grounds for revocation or suspension of license. The
26 Oregon Liquor Control Commission may revoke or suspend a license
27 issued under section 13 of this 2013 Act if the commission finds or has
28 reasonable ground to believe any of the following:

29 “(1) That the licensee:

30 “(a) Has violated a provision of sections 1 to 47 of this 2013 Act or

1 a rule adopted under sections 1 to 47 of this 2013 Act.

2 “(b) Has made a false representation or statement to the commis-
3 sion in order to induce or prevent action by the commission.

4 “(c) Is mentally incompetent.

5 “(d) Is insolvent or physically unable to carry on the management
6 of the business that is licensed.

7 “(e) Is in the habit of using alcoholic beverages, habit-forming
8 drugs or controlled substances to excess.

9 “(f) Has made a false representation or statement to a consumer
10 or the public concerning marijuana or marijuana-infused products sold
11 by the licensee.

12 “(g) Since the issuance of the license, has been convicted of a crime
13 related to marijuana use or a county or city ordinance related to
14 marijuana use.

15 “(2) That there is any other reason that, in the opinion of the
16 commission, based on public convenience or necessity, warrants re-
17 voking or suspending the license.

18 “SECTION 22. No ‘tied house’ prohibitions. A person may hold one
19 or more production licenses, one or more processor licenses and one
20 or more retail licenses.

21 “SECTION 23. Delivery of marijuana. A marijuana producer,
22 marijuana processor or marijuana wholesaler may deliver marijuana
23 and marijuana-infused products only to a licensed premises. A
24 marijuana retailer is restricted to selling marijuana and marijuana-
25 infused products on the premises described in the license, but may
26 deliver marijuana and marijuana-infused products to consumers pur-
27 suant to bona fide orders received by a business located on a licensed
28 premises.

29 “SECTION 24. Examination of books and premises of licensees. (1)
30 The Oregon Liquor Control Commission, after providing 72 hours no-

1 tice to a person licensed under sections 12 to 24 of this 2013 Act, may
2 make an examination of the books kept at the premises for the pur-
3 pose of determining compliance with sections 1 to 47 of this 2013 Act
4 and rules adopted by the commission under sections 1 to 47 of this 2013
5 Act.

6 “(2) The commission may at any time make an examination of the
7 premises of a person licensed under sections 12 to 24 of this 2013 Act
8 for the purpose of determining compliance with sections 1 to 47 of this
9 2013 Act and rules adopted under sections 1 to 47 of this 2013 Act.

10 “SECTION 25. Administration by Oregon Liquor Control Commis-
11 sion. The Oregon Liquor Control Commission shall administer sections
12 25 to 36 of this 2013 Act and prescribe forms and adopt rules as the
13 commission considers necessary to enforce sections 25 to 36 of this 2013
14 Act.

15 “SECTION 26. Tax on marijuana. (1) A tax is imposed upon the
16 privilege of engaging in business as a marijuana producer at the rate
17 of \$35 per ounce on all marijuana produced in this state.

18 “(2) The rate of tax imposed by this section applies proportionately
19 to quantities of marijuana that are less than one ounce.

20 “(3) The tax imposed by this section shall be measured by the
21 amount of marijuana produced by a marijuana producer.

22 “(4) All moneys collected by the Oregon Liquor Control Commission
23 under this section shall be deposited into the suspense account de-
24 scribed in section 35 of this 2013 Act for purposes specified in sections
25 35 and 36 of this 2013 Act.

26 “SECTION 27. Payment of taxes; refunds; interest or penalty; ap-
27 peal. (1) The privilege tax imposed by section 26 of this 2013 Act shall
28 be paid to the Oregon Liquor Control Commission. Taxes to be paid
29 during the periods for which statements are required under section 28
30 of this 2013 Act shall be paid before the time for filing such statements

1 expires. If not so paid, a penalty of 10 percent and interest at the rate
2 of one percent a month or fraction of a month shall be added and
3 collected. The commission may refund a tax payment imposed upon
4 or paid in error by a marijuana producer. The commission may waive
5 the collection or refund the payment of a tax imposed and collected
6 on marijuana determined by the commission to be unfit for human
7 consumption or not salable.

8 “(2) The commission may waive any interest or penalty assessed
9 under this section if the commission, in its discretion, determines that
10 the marijuana producer has made a good faith attempt to comply with
11 the requirements of sections 25 to 36 of this 2013 Act.

12 “(3) Except in the case of fraud, the commission may not assess any
13 interest or penalty on any tax due under section 26 of this 2013 Act
14 following the expiration of 36 months from the date on which the
15 statement required under section 28 of this 2013 Act was filed.

16 “(4) A marijuana producer may appeal a tax imposed under section
17 26 of this 2013 Act in the manner of a contested case under ORS
18 chapter 183.

19 “SECTION 28. Statements by marijuana producers as to quantities
20 produced. On or before the 20th day of each month, every marijuana
21 producer shall file with the Oregon Liquor Control Commission a
22 statement of the quantity of marijuana produced by the marijuana
23 producer during the preceding calendar month.

24 “SECTION 29. Estimate by Oregon Liquor Control Commission
25 when statement not filed or false statement filed. If a marijuana pro-
26 ducer fails, neglects or refuses to file a statement required by section
27 28 of this 2013 Act or files a false statement, the Oregon Liquor Control
28 Commission shall estimate the amount of marijuana produced by the
29 marijuana producer and assess the privilege tax imposed under section
30 26 of this 2013 Act on the basis of the estimate. The marijuana pro-

1 ducer may not make an appeal under section 27 of this 2013 Act if the
2 marijuana producer fails, neglects or refuses to file a statement or
3 files a false statement.

4 **“SECTION 30. Lien created by tax.** The privilege tax imposed under
5 section 26 of this 2013 Act constitutes a lien upon, and has the effect
6 of an execution duly levied against, any and all property of the
7 marijuana producer. The lien attaches at the time the marijuana
8 subject to the tax was produced and remains until the tax is paid or
9 the property is sold in payment for the tax. The lien created by this
10 section is paramount to all private liens or encumbrances.

11 **“SECTION 31. Records to be kept by marijuana producers.** Every
12 marijuana producer shall keep a complete and accurate record of all
13 sales of marijuana, and a complete and accurate record of the number
14 of ounces produced and the date of production. The records must be
15 in a form prescribed by the Oregon Liquor Control Commission by rule
16 and must contain any information the commission requires by rule.

17 **“SECTION 32. Inspection of marijuana producer’s records; records**
18 **to be kept for prescribed period.** (1) The Oregon Liquor Control Com-
19 mission may, at any time, examine the records and books of a
20 marijuana producer. The commission may appoint auditors, investi-
21 gators and other employees that the commission considers necessary
22 to enforce its powers and perform its duties under sections 25 to 36 of
23 this 2013 Act.

24 **“(2) A marijuana producer shall maintain and keep for two years**
25 **all records required by section 31 of this 2013 Act and all books of ac-**
26 **counts related to the production of marijuana. A marijuana producer**
27 **shall provide copies of those records and books to the commission**
28 **when requested by the commission.**

29 **“SECTION 33. Failure to pay tax or maintain records.** (1) A
30 marijuana producer may not:

1 “(a) Fail to pay the privilege tax imposed under section 26 of this
2 2013 Act when it is due; or

3 “(b) Falsify a statement required by section 28 of this 2013 Act.

4 “(2) A person may not:

5 “(a) Refuse to permit the Oregon Liquor Control Commission or a
6 representative of the commission to make an inspection of the books
7 and records authorized by sections 31 and 32 of this 2013 Act;

8 “(b) Fail to keep books of accounts required by sections 25 to 36 of
9 this 2013 Act;

10 “(c) Fail to preserve the books for two years as required by section
11 32 of this 2013 Act; or

12 “(d) Alter, cancel or obliterate entries in the books of accounts for
13 the purpose of falsifying a record required by sections 25 to 36 of this
14 2013 Act.

15 “SECTION 34. State has exclusive right to tax marijuana. No
16 county or city of this state shall impose a fee or tax, including occu-
17 pation taxes, privilege taxes or inspection fees, in connection with the
18 production, sale, transporting, delivering or handling of marijuana.

19 “SECTION 35. Disposition of moneys; revolving fund. (1) All moneys
20 collected by the Oregon Liquor Control Commission under sections 1
21 to 47 of this 2013 Act shall be paid to the State Treasurer who shall
22 credit the moneys to a suspense account of the commission. Whenever
23 the commission receives moneys in excess of the amount legally due
24 and payable to the commission, the commission shall refund the ex-
25 cess amount by check drawn upon the State Treasurer and charged
26 to the suspense account. After withholding a sum, not to exceed
27 \$250,000, as the commission considers necessary as a revolving fund for
28 refunds and a working cash balance, the commission shall direct the
29 State Treasurer to transfer the moneys remaining in the suspense ac-
30 count to the Cannabis Tax Account established under section 36 of this

1 2013 Act for the purpose of making the distributions required by sec-
2 tion 36 of this 2013 Act.

3 “(2) All necessary expenditures of the commission incurred in car-
4 rying out sections 1 to 47 of this 2013 Act, including sums necessary
5 to reimburse the suspense account of the commission, shall be paid
6 from the Cannabis Tax Account.

7 “SECTION 36. Cannabis Tax Account; distribution of available
8 moneys. (1) There is established the Cannabis Tax Account in the
9 General Fund. The account shall consist of moneys transferred to the
10 account under section 35 of this 2013 Act.

11 “(2) At the end of each month, the Oregon Liquor Control Com-
12 mission shall determine the amount of moneys available for distrib-
13 ution in the Cannabis Tax Account and, after withholding an amount
14 that the commission considers necessary to carry out the duties of the
15 commission under sections 1 to 47 of this 2013 Act, direct the State
16 Treasurer to distribute the moneys as follows:

17 “(a) Forty percent shall be transferred to the Common School Fund;

18 “(b) Twenty percent shall be transferred to the State Police Account
19 established under ORS 181.175;

20 “(c) Twenty percent shall be transferred to the Mental Health
21 Alcoholism and Drug Services Account established under ORS 430.380;
22 and

23 “(d) Twenty percent shall be transferred to the General Fund for
24 general governmental purposes.

25 “SECTION 37. Importing marijuana and marijuana-infused products
26 prohibited. Marijuana and marijuana-infused products may not be
27 imported into or exported from this state by any person.

28 “SECTION 38. Marijuana and marijuana-infused products may not
29 be given as prize. Marijuana and marijuana-infused products may not
30 be given as a prize, premium or consideration for a lottery, contest,

1 competition or game of chance or skill of any kind.

2 **“SECTION 39. Duty of officers to enforce and to inform district at-**
3 **torney.** The state police, sheriffs, constables and police officers in this
4 state shall enforce sections 1 to 47 of this 2013 Act and assist the
5 Oregon Liquor Control Commission in detecting violations of sections
6 1 to 47 of this 2013 Act and apprehending offenders. An officer having
7 notice, knowledge or reasonable ground of suspicion of a violation of
8 sections 1 to 47 of this 2013 Act shall immediately notify the district
9 attorney of the county in which the violation occurred and furnish the
10 district attorney with the names and addresses of all witnesses and
11 with other information within the officer’s knowledge pertaining to
12 the violation.

13 **“SECTION 40. Confiscation of marijuana or marijuana-infused pro-**
14 **ducts and property.** Whenever an officer arrests a person for violating
15 sections 1 to 47 of this 2013 Act, the officer may take into possession
16 any marijuana or marijuana-infused products and property used to
17 produce, process or sell marijuana or marijuana-infused products in
18 the possession of the person or on the premises where the violation
19 occurred. If the person arrested is convicted and it is found that the
20 marijuana or marijuana-infused products or property was used in vio-
21 lation of the law, the marijuana or marijuana-infused products and
22 property is forfeited to the state. Forfeited marijuana and marijuana-
23 infused products shall be destroyed and forfeited property shall be de-
24 stroyed or sold. Proceeds from sold property shall be deposited in the
25 Common School Fund.

26 **“SECTION 41. Duty to notify of conviction of licensee.** A county
27 court, district attorney or municipal authority, immediately upon the
28 conviction of a person licensed under sections 12 to 24 of this 2013 Act,
29 shall notify the Oregon Liquor Control Commission of the conviction.

30 **“SECTION 42. Property and places as common nuisances.** (1) A

1 room, house, building, boat, structure or place of any kind where
2 marijuana or marijuana-infused products are sold, manufactured,
3 bartered or given away in violation of the law, or where persons are
4 permitted to resort for the purpose of using marijuana or marijuana-
5 infused products in violation of the law, or any place where marijuana
6 or marijuana-infused products are kept for sale, barter or gift in vio-
7 lation of the law, and all marijuana or marijuana-infused products or
8 property subject to confiscation under section 40 of this 2013 Act that
9 is kept and used in such a place, is a common nuisance.

10 “(2) A person may not maintain or assist in maintaining a common
11 nuisance under this section or knowingly suffer or permit a common
12 nuisance under this section to exist on property owned, managed or
13 leased by the person.

14 “SECTION 43. Lien on place used to unlawfully handle marijuana
15 and marijuana-infused products. If the owner of a premises knowingly
16 has allowed the premises to be used or occupied for the production,
17 sale or possession of marijuana and marijuana-infused products con-
18 trary to sections 1 to 47 of this 2013 Act, the premises is subject to a
19 lien and may be sold to pay all fines and costs assessed against the
20 occupants of the premises who committed the violation or violations.
21 The lien may be enforced by civil action in any court having jurisdic-
22 tion by the district attorney of the county where the premises is lo-
23 cated.

24 “SECTION 44. Governor authorized to suspend license. In case of
25 invasion, disaster, insurrection, riot or imminent danger of invasion,
26 disaster, insurrection or riot, the Governor may, for the duration of
27 the invasion, disaster, insurrection, riot or imminent danger of inva-
28 sion, disaster, insurrection or riot, immediately suspend without no-
29 tice a license issued under sections 12 to 24 of this 2013 Act in the area
30 subject to or threatened by the invasion, disaster, insurrection or riot.

1 **SECTION 45. Penalties. (1) Violation of a provision of sections 1**
2 **to 47 of this 2013 Act is a Class B violation.**

3 **“(2) Subject to ORS 153.022, violation of a rule adopted by the**
4 **Oregon Liquor Control Commission under sections 1 to 47 of this 2013**
5 **Act is a Class B violation.**

6 **SECTION 46. Unlawful use of marijuana and marijuana-infused**
7 **products. (1) Notwithstanding sections 1 to 47 of this 2013 Act, it is**
8 **unlawful for any person to engage in the use of marijuana or**
9 **marijuana-infused products in a public place, as defined in ORS**
10 **161.015, in public view, in a correctional facility as defined in ORS**
11 **162.135 or in a youth correction facility as defined in ORS 162.135.**

12 **“(2) Violation of this section is a specific fine violation. The**
13 **presumptive fine for a violation of this section is \$650.**

14 **SECTION 47. Severability. If a provision of sections 1 to 47 of this**
15 **2013 Act or its application to a person or circumstance is held invalid,**
16 **the invalidity does not affect other provisions or applications of**
17 **sections 1 to 47 of this 2013 Act that can be given effect without the**
18 **invalid provision or application. To this end, the provisions of sections**
19 **1 to 47 of this 2013 Act are severable.**

20 **SECTION 48. ORS 475.856, 475.858, 475.860, 475.862, 475.864, 571.300,**
21 **571.305 and 571.315 are added to and made a part of sections 1 to 47 of**
22 **this 2013 Act.**

23 **SECTION 49. ORS 475.856 is amended to read:**

24 **“475.856. (1) It is unlawful for any person **under 21 years of age** to**
25 **manufacture marijuana.**

26 **“(2) Unlawful manufacture of marijuana is a Class A felony.**

27 **SECTION 50. ORS 475.860 is amended to read:**

28 **“475.860. (1) It is unlawful:**

29 **“(a) For any person **under 21 years of age** to deliver marijuana[.]; or**

30 **“(b) For any person to deliver marijuana to a person under 21 years**

1 **of age.**

2 “(2) Unlawful delivery of marijuana is a:

3 “(a) Class B felony if the delivery is for consideration.

4 “(b) Class C felony if the delivery is for no consideration.

5 “(3) Notwithstanding subsection (2) of this section, unlawful delivery of
6 marijuana is a:

7 “(a) Class A misdemeanor, if the delivery is for no consideration and
8 consists of less than one avoirdupois ounce of the dried leaves, stems and
9 flowers of the plant Cannabis family Moraceae; or

10 “(b) Violation, if the delivery is for no consideration and consists of less
11 than five grams of the dried leaves, stems and flowers of the plant Cannabis
12 family Moraceae. A violation under this paragraph is a specific fine vio-
13 lation. The presumptive fine for a violation under this paragraph is \$650.

14 “(4) Notwithstanding subsections (2) and (3) of this section, unlawful de-
15 livery of marijuana is a:

16 “(a) Class A felony, if the delivery is to a person under 18 years of age
17 and the defendant is at least 18 years of age and is at least three years older
18 than the person to whom the marijuana is delivered; or

19 “(b) Class C misdemeanor, if the delivery:

20 “(A) Is for no consideration;

21 “(B) Consists of less than five grams of the dried leaves, stems and flow-
22 ers of the plant Cannabis family Moraceae;

23 “(C) Takes place in a public place, as defined in ORS 161.015, that is
24 within 1,000 feet of the real property comprising a public or private elemen-
25 tary, secondary or career school attended primarily by minors; and

26 “(D) Is to a person who is 18 years of age or older **but under 21 years**
27 **of age.**

28 “**SECTION 51.** ORS 475.864 is amended to read:

29 “475.864. (1) It is unlawful for any person **under 21 years of age** know-
30 ingly or intentionally to possess marijuana.

1 “(2) Unlawful possession of marijuana is a Class B felony.

2 “(3) Notwithstanding subsection (2) of this section, unlawful possession
3 of marijuana is a violation if the amount possessed is less than one
4 avoirdupois ounce of the dried leaves, stems and flowers of the plant
5 Cannabis family Moraceae. A violation under this subsection is a specific
6 fine violation. The presumptive fine for a violation under this subsection is
7 \$650.

8 “(4) Notwithstanding subsections (2) and (3) of this section, unlawful
9 possession of marijuana is a Class C misdemeanor if the amount possessed
10 is less than one avoirdupois ounce of the dried leaves, stems and flowers of
11 the plant Cannabis family Moraceae and the possession takes place in a
12 public place, as defined in ORS 161.015, that is within 1,000 feet of the real
13 property comprising a public or private elementary, secondary or career
14 school attended primarily by minors.

15 “**SECTION 52.** ORS 571.315 is amended to read:

16 “571.315. (1) In addition to any other liability or penalty provided by law,
17 the State Department of Agriculture may revoke or refuse to issue or renew
18 an industrial hemp license or an agricultural hemp seed production permit
19 and may impose a civil penalty for violation of:

20 “(a) A license or permit requirement;

21 “(b) License or permit terms or conditions;

22 “(c) Department rules relating to growing or handling industrial hemp;
23 or

24 “(d) A final order of the department that is specifically directed to the
25 grower’s or handler’s industrial hemp operations or activities.

26 “(2) The department may not impose a civil penalty under this section
27 that exceeds \$2,500. The department shall impose civil penalties under this
28 section in the manner provided by ORS 183.745.

29 “(3) The department may revoke or refuse to issue or renew an industrial
30 hemp license or an agricultural hemp seed production permit for violation

1 of any rule of the department that pertains to agricultural operations or
2 activities other than industrial hemp growing or handling.

3 “(4) A revocation of, or a refusal to issue or renew, an industrial hemp
4 license or an agricultural hemp seed production permit is subject to ORS
5 chapter 183.

6 “(5) **The department may not revoke or refuse to issue or renew an**
7 **industrial hemp license or an agricultural hemp seed production per-**
8 **mit on the basis that hemp production or possession, or commerce in**
9 **industrial hemp commodities or products, is prohibited by federal law.**

10 “**SECTION 53.** ORS 475.005 is amended to read:

11 “475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless
12 the context requires otherwise:

13 “(1) ‘Abuse’ means the repetitive excessive use of a drug short of de-
14 pendence, without legal or medical supervision, which may have a detri-
15 mental effect on the individual or society.

16 “(2) ‘Administer’ means the direct application of a controlled substance,
17 whether by injection, inhalation, ingestion or any other means, to the body
18 of a patient or research subject by:

19 “(a) A practitioner or an authorized agent thereof; or

20 “(b) The patient or research subject at the direction of the practitioner.

21 “(3) ‘Administration’ means the Drug Enforcement Administration of the
22 United States Department of Justice, or its successor agency.

23 “(4) ‘Agent’ means an authorized person who acts on behalf of or at the
24 direction of a manufacturer, distributor or dispenser. It does not include a
25 common or contract carrier, public warehouseman or employee of the carrier
26 or warehouseman.

27 “(5) ‘Board’ means the State Board of Pharmacy.

28 “(6) ‘Controlled substance’:

29 “(a) Means, **except as provided in paragraphs (b) and (c) of this**
30 **subsection**, a drug or its immediate precursor classified in Schedules I

1 through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812,
2 as modified under ORS 475.035. The use of the term ‘precursor’ in this para-
3 graph does not control and is not controlled by the use of the term
4 ‘precursor’ in ORS 475.752 to 475.980.

5 “(b) Does not [*mean*] **include** industrial hemp, as defined in ORS 571.300,
6 or industrial hemp commodities or products.

7 “(c) **Does not include marijuana.**

8 “(7) ‘Counterfeit substance’ means a controlled substance or its container
9 or labeling, which, without authorization, bears the trademark, trade name,
10 or other identifying mark, imprint, number or device, or any likeness thereof,
11 of a manufacturer, distributor or dispenser other than the person who in fact
12 manufactured, delivered or dispensed the substance.

13 “(8) ‘Deliver’ or ‘delivery’ means the actual, constructive or attempted
14 transfer, other than by administering or dispensing, from one person to an-
15 other of a controlled substance, whether or not there is an agency relation-
16 ship.

17 “(9) ‘Device’ means instruments, apparatus or contrivances, including
18 their components, parts or accessories, intended:

19 “(a) For use in the diagnosis, cure, mitigation, treatment or prevention
20 of disease in humans or animals; or

21 “(b) To affect the structure of any function of the body of humans or
22 animals.

23 “(10) ‘Dispense’ means to deliver a controlled substance to an ultimate
24 user or research subject by or pursuant to the lawful order of a practitioner,
25 and includes the prescribing, administering, packaging, labeling or com-
26 pounding necessary to prepare the substance for that delivery.

27 “(11) ‘Dispenser’ means a practitioner who dispenses.

28 “(12) ‘Distributor’ means a person who delivers.

29 “(13) ‘Drug’ means:

30 “(a) Substances recognized as drugs in the official United States

1 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or
2 official National Formulary, or any supplement to any of them;

3 “(b) Substances intended for use in the diagnosis, cure, mitigation, treat-
4 ment or prevention of disease in humans or animals;

5 “(c) Substances (other than food) intended to affect the structure or any
6 function of the body of humans or animals; and

7 “(d) Substances intended for use as a component of any article specified
8 in paragraph (a), (b) or (c) of this subsection; however, the term does not
9 include devices or their components, parts or accessories.

10 “(14) ‘Electronically transmitted’ or ‘electronic transmission’ means a
11 communication sent or received through technological apparatuses, including
12 computer terminals or other equipment or mechanisms linked by telephone
13 or microwave relays, or any similar apparatus having electrical, digital,
14 magnetic, wireless, optical, electromagnetic or similar capabilities.

15 “(15) ‘Manufacture’ means the production, preparation, propagation, com-
16 pounding, conversion or processing of a controlled substance, either directly
17 or indirectly by extraction from substances of natural origin, or independ-
18 ently by means of chemical synthesis, or by a combination of extraction and
19 chemical synthesis, and includes any packaging or repackaging of the sub-
20 stance or labeling or relabeling of its container, except that this term does
21 not include the preparation or compounding of a controlled substance:

22 “(a) By a practitioner as an incident to administering or dispensing of a
23 controlled substance in the course of professional practice; or

24 “(b) By a practitioner, or by an authorized agent under the practitioner’s
25 supervision, for the purpose of, or as an incident to, research, teaching or
26 chemical analysis and not for sale.

27 “(16) ‘Marijuana’:

28 “(a) Except as provided in this subsection, means all parts of the plant
29 Cannabis family Moraceae, whether growing or not; the resin extracted from
30 any part of the plant; and every compound, manufacture, salt, derivative,

1 mixture, or preparation of the plant or its resin.

2 “(b) Does not mean the mature stalks of the plant, fiber produced from
3 the stalks, oil or cake made from the seeds of the plant, any other compound,
4 manufacture, salt, derivative, mixture, or preparation of the mature stalks
5 (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized
6 seed of the plant which is incapable of germination.

7 “(c) Does not mean industrial hemp, as defined in ORS 571.300, or indus-
8 trial hemp commodities or products.

9 “(17) ‘Person’ includes a government subdivision or agency, business trust,
10 estate, trust or any other legal entity.

11 “(18) ‘Practitioner’ means physician, dentist, veterinarian, scientific in-
12 vestigator, certified nurse practitioner, physician assistant or other person
13 licensed, registered or otherwise permitted by law to dispense, conduct re-
14 search with respect to or to administer a controlled substance in the course
15 of professional practice or research in this state but does not include a
16 pharmacist or a pharmacy.

17 “(19) ‘Prescription’ means a written, oral or electronically transmitted
18 direction, given by a practitioner for the preparation and use of a drug.
19 When the context requires, ‘prescription’ also means the drug prepared under
20 such written, oral or electronically transmitted direction. Any label affixed
21 to a drug prepared under written, oral or electronically transmitted direction
22 shall prominently display a warning that the removal thereof is prohibited
23 by law.

24 “(20) ‘Production’ includes the manufacture, planting, cultivation, grow-
25 ing or harvesting of a controlled substance.

26 “(21) ‘Research’ means an activity conducted by the person registered
27 with the federal Drug Enforcement Administration pursuant to a protocol
28 approved by the United States Food and Drug Administration.

29 “(22) ‘Ultimate user’ means a person who lawfully possesses a controlled
30 substance for the use of the person or for the use of a member of the

1 household of the person or for administering to an animal owned by the
2 person or by a member of the household of the person.

3 **“SECTION 54.** ORS 90.396 is amended to read:

4 “90.396. (1) Except as provided in subsection (2) of this section, after at
5 least 24 hours’ written notice specifying the acts and omissions constituting
6 the cause and specifying the date and time of the termination, the landlord
7 may terminate the rental agreement and take possession as provided in ORS
8 105.105 to 105.168, if:

9 “(a) The tenant, someone in the tenant’s control or the tenant’s pet seri-
10 ously threatens to inflict substantial personal injury, or inflicts any sub-
11 stantial personal injury, upon a person on the premises other than the
12 tenant;

13 “(b) The tenant or someone in the tenant’s control recklessly endangers
14 a person on the premises other than the tenant by creating a serious risk
15 of substantial personal injury;

16 “(c) The tenant, someone in the tenant’s control or the tenant’s pet in-
17 flicts any substantial personal injury upon a neighbor living in the immedi-
18 ate vicinity of the premises;

19 “(d) The tenant or someone in the tenant’s control intentionally inflicts
20 any substantial damage to the premises or the tenant’s pet inflicts substan-
21 tial damage to the premises on more than one occasion;

22 “(e)(A) The tenant intentionally provided substantial false information on
23 the application for the tenancy within the past year;

24 “(B) The false information was with regard to a criminal conviction of
25 the tenant that would have been material to the landlord’s acceptance of the
26 application; and

27 “(C) The landlord terminates the rental agreement within 30 days after
28 discovering the falsity of the information; or

29 “(f) The tenant, someone in the tenant’s control or the tenant’s pet com-
30 mits any act that is outrageous in the extreme, on the premises or in the

1 immediate vicinity of the premises. For purposes of this paragraph, an act
2 is outrageous in the extreme if the act is not described in paragraphs (a) to
3 (e) of this subsection, but is similar in degree and is one that a reasonable
4 person in that community would consider to be so offensive as to warrant
5 termination of the tenancy within 24 hours, considering the seriousness of
6 the act or the risk to others. An act that is outrageous in the extreme is
7 more extreme or serious than an act that warrants a 30-day termination un-
8 der ORS 90.392. Acts that are ‘outrageous in the extreme’ include, but are
9 not limited to, the following acts by a person:

10 “(A) Prostitution, patronizing a prostitute or promoting prostitution, as
11 described in ORS 167.007, 167.008 and 167.012;

12 “(B) Manufacture, delivery or possession of a controlled substance, as
13 described in ORS 475.005, but not including[:]

14 “[*i*] *The medical use of marijuana in compliance with ORS 475.300 to*
15 *475.346;*]

16 “[*ii*] *Possession of, or delivery for no consideration of, less than one*
17 *avoirdupois ounce of marijuana as described in ORS 475.860 (3) or 475.864 (3);*
18 *or]*

19 “[*iii*] possession of prescription drugs;

20 “(C) Intimidation, as described in ORS 166.155 and 166.165; or

21 “(D) Burglary as described in ORS 164.215 and 164.225.

22 “(2) If the cause for a termination notice given pursuant to subsection (1)
23 of this section is based upon the acts of the tenant’s pet, the tenant may cure
24 the cause and avoid termination of the tenancy by removing the pet from the
25 premises prior to the end of the notice period. The notice must describe the
26 right of the tenant to cure the cause. If the tenant returns the pet to the
27 premises at any time after having cured the violation, the landlord, after at
28 least 24 hours’ written notice specifying the subsequent presence of the of-
29 fending pet, may terminate the rental agreement and take possession as
30 provided in ORS 105.105 to 105.168. The tenant does not have a right to cure

1 this subsequent violation.

2 “(3) For purposes of subsection (1) of this section, someone is in the
3 tenant’s control if that person enters or remains on the premises with the
4 tenant’s permission or consent after the tenant reasonably knows or should
5 know of that person’s act or likelihood to commit any act of the type de-
6 scribed in subsection (1) of this section.

7 “(4) An act can be proven to be outrageous in the extreme even if the act
8 is one that does not violate a criminal statute. Notwithstanding the refer-
9 ences to criminal statutes in subsection (1)(f) of this section, the landlord’s
10 burden of proof in an action for possession under subsection (1) of this sec-
11 tion is the civil standard of proof by a preponderance of the evidence.

12 “(5) If a good faith effort by a landlord to terminate the tenancy under
13 subsection (1)(f) of this section and to recover possession of the rental unit
14 under ORS 105.105 to 105.168 fails by decision of the court, the landlord may
15 not be found in violation of any state statute or local ordinance requiring
16 the landlord to remove that tenant upon threat of fine, abatement or forfei-
17 ture as long as the landlord continues to make a good faith effort to termi-
18 nate the tenancy.

19 **“SECTION 55.** ORS 453.858 is amended to read:

20 “453.858. As used in ORS 453.855 to 453.912:

21 “[1] ‘Controlled substance’ does not include marijuana.]

22 “[2] (1) ‘Illegal drug manufacturing site’ means any property on which
23 there is a reasonably clear possibility of contamination with chemicals as-
24 sociated with the manufacturing of controlled substances **as defined in ORS**
25 **475.005** and:

26 “(a) Where activity involving the unauthorized manufacture of a con-
27 trolled substance listed on Schedules I and II or any precursor chemical for
28 such substances occurs; or

29 “(b) Wherein are kept, stored or located any of the devices, equipment,
30 things or substances used for the unauthorized manufacture of a controlled

1 substance listed on Schedules I and II.

2 “[3] (2) ‘Property’ means any:

3 “(a) Real property, improvements on real property or portions of the im-
4 provements;

5 “(b) Boat, trailer, motor vehicle or manufactured dwelling; or

6 “(c) Contents of the items listed in paragraph (a) or (b) of this subsection.

7 **“SECTION 56.** ORS 475.525 is amended to read:

8 “475.525. (1) It is unlawful for any person to sell or deliver, possess with
9 intent to sell or deliver or manufacture with intent to sell or deliver drug
10 paraphernalia, knowing that it will be used to unlawfully plant, propagate,
11 cultivate, grow, harvest, manufacture, compound, convert, produce, process,
12 prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
13 inhale or otherwise introduce into the human body a controlled substance
14 as defined by ORS 475.005.

15 “(2) For the purposes of this section, ‘drug paraphernalia’ means all
16 equipment, products and materials of any kind which are marketed for use
17 or designed for use in planting, propagating, cultivating, growing, harvest-
18 ing, manufacturing, compounding, converting, producing, processing, prepar-
19 ing, testing, analyzing, packaging, repackaging, storing, containing,
20 concealing, injecting, ingesting, inhaling or otherwise introducing into the
21 human body a controlled substance in violation of ORS 475.752 to 475.980.
22 Drug paraphernalia includes, but is not limited to:

23 “(a) Kits marketed for use or designed for use in unlawfully planting,
24 propagating, cultivating, growing or harvesting of any species of plant which
25 is a controlled substance or from which a controlled substance can be de-
26 rived;

27 “(b) Kits marketed for use or designed for use in manufacturing, com-
28 pounding, converting, producing, processing or preparing controlled sub-
29 stances;

30 “(c) Isomerization devices marketed for use or designed for use in in-

1 creasing the potency of any species of plant which is a controlled substance;

2 “(d) Testing equipment marketed for use or designed for use in identifying
3 or in analyzing the strength, effectiveness or purity of controlled substances;

4 “(e) Scales and balances marketed for use or designed for use in weighing
5 or measuring controlled substances;

6 “(f) Diluents and adulterants, such as quinine hydrochloride, mannitol,
7 mannite, dextrose and lactose, marketed for use or designed for use in cut-
8 ting controlled substances;

9 “[(g) *Separation gins and sifters marketed for use or designed for use in*
10 *removing twigs and seeds from, or in otherwise cleaning or refining*
11 *marijuana;*]

12 “[(h)] **(g)** Containers and other objects marketed for use or designed for
13 use in storing or concealing controlled substances; and

14 “[(i)] **(h)** Objects marketed for use or designed specifically for use in
15 ingesting, inhaling or otherwise introducing [*marijuana,*] cocaine[, *hashish*
16 *or hashish oil*] into the human body[, *such as:*].

17 “[(A) *Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or*
18 *without screens, permanent screens or hashish heads;*]

19 “[(B) *Water pipes;*]

20 “[(C) *Carburetion tubes and devices;*]

21 “[(D) *Smoking and carburetion masks;*]

22 “[(E) *Roach clips, meaning objects used to hold burning material that has*
23 *become too small or too short to be held in the hand, such as a marijuana*
24 *cigarette;*]

25 “[(F) *Miniature cocaine spoons and cocaine vials;*]

26 “[(G) *Chamber pipes;*]

27 “[(H) *Carburetor pipes;*]

28 “[(I) *Electric pipes;*]

29 “[(J) *Air-driven pipes;*]

30 “[(K) *Chillums;*]

1 “[(L) *Bongs;*]

2 “[(M) *Ice pipes or chillers; and*]

3 “[(N) *Lighting equipment specifically designed for the growing of controlled*
4 *substances.*]

5 “(3) Drug paraphernalia does not include hypodermic syringes or needles.

6 “(4) In determining whether an object is drug paraphernalia, a trier of
7 fact should consider, in addition to all other relevant factors, the following:

8 “(a) Instructions, oral or written, provided with the object concerning its
9 use;

10 “(b) Descriptive materials accompanying the object which explain or de-
11 pict its use;

12 “(c) National and local advertising concerning its use;

13 “(d) The manner in which the object is displayed for sale;

14 “(e) The existence and scope of legitimate uses for the object in the
15 community; and

16 “(f) Any expert testimony which may be introduced concerning its use.

17 “(5) The provisions of ORS 475.525 to 475.565 do not apply to persons
18 registered under the provisions of ORS 475.125 or to persons specified as
19 exempt from registration under the provisions of that statute.

20 “**SECTION 57.** ORS 475.900 is amended to read:

21 “475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or
22 475.906 shall be classified as crime category 8 of the sentencing guidelines
23 grid of the Oregon Criminal Justice Commission if:

24 “(a) The violation constitutes delivery or manufacture of a controlled
25 substance and involves substantial quantities of a controlled substance. For
26 purposes of this paragraph, the following amounts constitute substantial
27 quantities of the following controlled substances:

28 “(A) Five grams or more of a mixture or substance containing a detect-
29 able amount of heroin;

30 “(B) Ten grams or more of a mixture or substance containing a detectable

1 amount of cocaine;

2 “(C) Ten grams or more of a mixture or substance containing a detectable
3 amount of methamphetamine, its salts, isomers or salts of its isomers;

4 “[*(D)*] *One hundred grams or more of a mixture or substance containing a*
5 *detectable amount of hashish;*]

6 “[*(E)*] *One hundred and fifty grams or more of a mixture or substance con-*
7 *taining a detectable amount of marijuana;*]

8 “[*(F)*] **(D)** Two hundred or more user units of a mixture or substance
9 containing a detectable amount of lysergic acid diethylamide;

10 “[*(G)*] **(E)** Sixty grams or more of a mixture or substance containing a
11 detectable amount of psilocybin or psilocin; or

12 “[*(H)*] **(F)** Five grams or more or 25 or more pills, tablets or capsules of
13 a mixture or substance containing a detectable amount of:

14 “(i) 3,4-methylenedioxyamphetamine;

15 “(ii) 3,4-methylenedioxymethamphetamine; or

16 “(iii) 3,4-methylenedioxy-N-ethylamphetamine.

17 “(b) The violation constitutes possession, delivery or manufacture of a
18 controlled substance and the possession, delivery or manufacture is a com-
19 mercial drug offense. A possession, delivery or manufacture is a commercial
20 drug offense for purposes of this subsection if it is accompanied by at least
21 three of the following factors:

22 “(A) The delivery was of heroin, cocaine, [*hashish, marijuana,*] metham-
23 phetamine, lysergic acid diethylamide, psilocybin or psilocin and was for
24 consideration;

25 “(B) The offender was in possession of \$300 or more in cash;

26 “(C) The offender was unlawfully in possession of a firearm or other
27 weapon as described in ORS 166.270 (2), or the offender used, attempted to
28 use or threatened to use a deadly or dangerous weapon as defined in ORS
29 161.015, or the offender was in possession of a firearm or other deadly or
30 dangerous weapon as defined in ORS 161.015 for the purpose of using it in

1 connection with a controlled substance offense;

2 “(D) The offender was in possession of materials being used for the
3 packaging of controlled substances such as scales, wrapping or foil, other
4 than the material being used to contain the substance that is the subject of
5 the offense;

6 “(E) The offender was in possession of drug transaction records or cus-
7 tomer lists;

8 “(F) The offender was in possession of stolen property;

9 “(G) Modification of structures by painting, wiring, plumbing or lighting
10 to facilitate a controlled substance offense;

11 “(H) The offender was in possession of manufacturing paraphernalia, in-
12 cluding recipes, precursor chemicals, laboratory equipment, lighting, venti-
13 lating or power generating equipment;

14 “(I) The offender was using public lands for the manufacture of controlled
15 substances;

16 “(J) The offender had constructed fortifications or had taken security
17 measures with the potential of injuring persons; or

18 “(K) The offender was in possession of controlled substances in an amount
19 greater than:

20 “(i) Three grams or more of a mixture or substance containing a detect-
21 able amount of heroin;

22 “(ii) Eight grams or more of a mixture or substance containing a detect-
23 able amount of cocaine;

24 “(iii) Eight grams or more of a mixture or substance containing a de-
25 tectable amount of methamphetamine;

26 “[*iv*] *Eight grams or more of a mixture or substance containing a detect-*
27 *able amount of hashish;*]

28 “[*v*] *One hundred ten grams or more of a mixture or substance containing*
29 *a detectable amount of marijuana;*]

30 “[*vi*] (iv) Twenty or more user units of a mixture or substance contain-

1 ing a detectable amount of lysergic acid diethylamide;

2 “[*vii*] (v) Ten grams or more of a mixture or substance containing a

3 detectable amount of psilocybin or psilocin; or

4 “[*viii*] (vi) Four grams or more or 20 or more pills, tablets or capsules

5 of a mixture or substance containing a detectable amount of:

6 “(I) 3,4-methylenedioxyamphetamine;

7 “(II) 3,4-methylenedioxymethamphetamine; or

8 “(III) 3,4-methylenedioxy-N-ethylamphetamine.

9 “(c) The violation constitutes a violation of ORS 475.848, 475.852, 475.858,

10 475.862, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

11 “(d) The violation constitutes manufacturing methamphetamine and the

12 manufacturing consists of:

13 “(A) A chemical reaction involving one or more precursor substances for

14 the purpose of manufacturing methamphetamine; or

15 “(B) Grinding, soaking or otherwise breaking down a precursor substance

16 for the purpose of manufacturing methamphetamine.

17 “(e) The violation constitutes a violation of ORS 475.860 (4)(a) or 475.906

18 (1) or (2).

19 “(2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified

20 as crime category 6 of the sentencing guidelines grid of the Oregon Criminal

21 Justice Commission if:

22 “(a) The violation constitutes delivery of heroin, cocaine, methamphet-

23 amine or 3,4-methylenedioxyamphetamine,

24 3,4-methylenedioxymethamphetamine or

25 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

26 “(b) The violation constitutes possession of:

27 “(A) Five grams or more of a mixture or substance containing a detect-

28 able amount of heroin;

29 “(B) Ten grams or more of a mixture or substance containing a detectable

30 amount of cocaine;

1 “(C) Ten grams or more of a mixture or substance containing a detectable
2 amount of methamphetamine;

3 “[*(D)*] *One hundred grams or more of a mixture or substance containing a*
4 *detectable amount of hashish;*]

5 “[*(E)*] *One hundred fifty grams or more of a mixture or substance containing*
6 *a detectable amount of marijuana;*]

7 “[*(F)*] **(D)** Two hundred or more user units of a mixture or substance
8 containing a detectable amount of lysergic acid diethylamide;

9 “[*(G)*] **(E)** Sixty grams or more of a mixture or substance containing a
10 detectable amount of psilocybin or psilocin; or

11 “[*(H)*] **(F)** Five grams or more or 25 or more pills, tablets or capsules of
12 a mixture or substance containing a detectable amount of:

13 “(i) 3,4-methylenedioxyamphetamine;

14 “(ii) 3,4-methylenedioxymethamphetamine; or

15 “(iii) 3,4-methylenedioxy-N-ethylamphetamine.

16 “(3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not con-
17 tained in subsection (1) or (2) of this section shall be classified as:

18 “(a) Crime category 4 of the sentencing guidelines grid of the Oregon
19 Criminal Justice Commission if the violation involves delivery or manufac-
20 ture of a controlled substance; or

21 “(b) Crime category 1 of the sentencing guidelines grid of the Oregon
22 Criminal Justice Commission if the violation involves possession of a con-
23 trolled substance.

24 “(4) In order to prove a commercial drug offense, the state shall plead in
25 the accusatory instrument sufficient factors of a commercial drug offense
26 under subsections (1) and (2) of this section. The state has the burden of
27 proving each factor beyond a reasonable doubt.

28 “(5) As used in this section, ‘mixture or substance’ means any mixture or
29 substance, whether or not the mixture or substance is in an ingestible or
30 marketable form at the time of the offense.

1 **“SECTION 58.** ORS 475.908 is amended to read:

2 “475.908. (1) A person commits the crime of causing another person to
3 ingest a controlled substance if the person knowingly or intentionally causes
4 the other person to ingest, other than by administering or dispensing, a
5 controlled substance or a controlled substance analog without consent of the
6 other person. A person who violates this subsection is guilty of a Class B
7 felony.

8 “(2) Notwithstanding subsection (1) of this section, causing another per-
9 son to ingest a controlled substance is a Class A felony if the person, with
10 the intent of committing or facilitating a crime of violence against the other
11 person, knowingly or intentionally causes the other person to ingest a con-
12 trolled substance or a controlled substance analog without consent of the
13 other person.

14 “(3) For the purposes of this section:

15 “(a)(A) Except as provided in subparagraph (B) of this paragraph, ‘con-
16 trolled substance analog’ means a substance that:

17 “(i) Has a chemical structure that is substantially similar to the chemical
18 structure of a controlled substance in Schedule I or II.

19 “(ii) Has a stimulant, depressant or hallucinogenic effect on the central
20 nervous system that is substantially similar to or greater than the stimulant,
21 depressant or hallucinogenic effect on the central nervous system of a con-
22 trolled substance in Schedule I or II.

23 “(B) ‘Controlled substance analog’ does not include:

24 “(i) A controlled substance;

25 “(ii) Any substance that has an approved drug application;

26 “(iii) Any substance exempted under 21 U.S.C. 355 if the ingestion is
27 within the scope of investigation authorized under 21 U.S.C. 355; or

28 “(iv) Distilled spirits, wine or malt beverages.

29 “(b) ‘Crime of violence’ means:

30 “(A) Rape in the first degree, as defined in ORS 163.375;

1 “(B) Sodomy in the first degree, as defined in ORS 163.405;
2 “(C) Unlawful sexual penetration in the first degree, as defined in ORS
3 163.411;
4 “(D) Sexual abuse in the first degree, as defined in ORS 163.427;
5 “(E) Kidnapping in the first degree, as defined in ORS 163.235;
6 “(F) Kidnapping in the second degree, as defined in ORS 163.225;
7 “(G) Assault in the first degree, as defined in ORS 163.185; or
8 “(H) Assault in the second degree, as defined in ORS 163.175.

9 “(c) ‘Ingest’ means to consume or otherwise deliver a controlled substance
10 into the body of a person[, *except that ‘ingest’ does not include inhalation of*
11 *marijuana smoke*].

12 **“SECTION 59.** ORS 475.910 is amended to read:

13 “475.910. [(1)] Except as authorized by ORS 475.005 to 475.285 or 475.752
14 to 475.980, it is unlawful for any person to intentionally apply a controlled
15 substance to the body of another person by injection, inhalation, ingestion
16 or any other means if the other person is under 18 years of age. A person
17 who violates this section with respect to:

18 “[a] (1) A controlled substance in Schedule I or II, is guilty of a Class
19 A felony classified as crime category 9 of the sentencing guidelines grid of
20 the Oregon Criminal Justice Commission.

21 “[b] (2) A controlled substance in Schedule III, is guilty of a Class B
22 felony classified as crime category 8 of the sentencing guidelines grid of the
23 Oregon Criminal Justice Commission.

24 “[c] (3) A controlled substance in Schedule IV, is guilty of a Class C
25 felony.

26 “[d] (4) A controlled substance in Schedule V, is guilty of a Class A
27 misdemeanor.

28 “[2] *It is a defense to a charge of violating subsection (1) of this section*
29 *by applying marijuana that the person applying the marijuana was less than*
30 *three years older than the victim at the time of the alleged offense.]*

1 **“SECTION 60.** ORS 475.933 is amended to read:

2 “475.933. (1) When a court sentences a person convicted of a crime listed
3 in subsection (2) of this section, the court may not impose a sentence of op-
4 tional probation or grant a downward dispositional departure or a downward
5 durational departure under the rules of the Oregon Criminal Justice Com-
6 mission if the person has a previous conviction for any of the crimes listed
7 in subsection (2) of this section.

8 “(2) The crimes to which subsection (1) of this section applies are:

9 “(a) Manufacture or delivery of a controlled substance[, *other than*
10 *marijuana,*] under ORS 475.752 (1);

11 “(b) Creation or delivery of a counterfeit substance[, *other than*
12 *marijuana,*] under ORS 475.752 (2);

13 “(c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850
14 or 475.852;

15 “(d) Manufacture or delivery of 3,4-methylenedioxymethamphetamine un-
16 der ORS 475.866, 475.868, 475.870 or 475.872;

17 “(e) Manufacture or delivery of cocaine under ORS 475.876, 475.878,
18 475.880 or 475.882;

19 “(f) Manufacture or delivery of methamphetamine under ORS 475.886,
20 475.888, 475.890 or 475.892;

21 “(g) Manufacture or delivery of a controlled substance within 1,000 feet
22 of a school under ORS 475.904;

23 “(h) Delivery of a controlled substance to a person under 18 years of age
24 under ORS 475.906; and

25 “(i) Possession of a precursor substance with intent to manufacture a
26 controlled substance under ORS 475.967.

27 “(3)(a) For a crime committed on or after November 1, 1989, a conviction
28 is considered to have occurred upon the pronouncement in open court of
29 sentence. However, when sentences are imposed for two or more convictions
30 arising out of the same conduct or criminal episode, none of the convictions

1 is considered to have occurred prior to any of the other convictions arising
2 out of the same conduct or criminal episode.

3 “(b) For a crime committed prior to November 1, 1989, a conviction is
4 considered to have occurred upon the pronouncement in open court of a
5 sentence or upon the pronouncement in open court of the suspended imposi-
6 tion of a sentence.

7 “(4) For purposes of this section, previous convictions must be proven
8 pursuant to ORS 137.079.

9 “(5) As used in this section, ‘previous conviction’ means:

10 “(a) Convictions occurring before, on or after July 1, 2009; and

11 “(b) Convictions entered in any other state or federal court for compara-
12 ble offenses.

13 **“SECTION 61. ORS 475.059 is repealed.**

14 **“SECTION 62. The amendments to ORS 90.396, 453.858, 475.005,**
15 **475.525, 475.856, 475.860, 475.864, 475.900, 475.908, 475.910 and 475.933 by**
16 **sections 49 to 51 and 53 to 60 of this 2013 Act and the repeal of ORS**
17 **475.059 by section 61 of this 2013 Act apply to conduct occurring on and**
18 **after the operative date specified in section 63 of this 2013 Act.**

19 **“SECTION 63. (1) Sections 1 to 47 of this 2013 Act, the amendments**
20 **to ORS 90.396, 453.858, 475.005, 475.525, 475.856, 475.860, 475.864, 475.900,**
21 **475.908, 475.910, 475.933 and 571.315 by sections 49 to 60 of this 2013 Act**
22 **and the repeal of ORS 475.059 by section 61 of this 2013 Act become**
23 **operative on July 1, 2014.**

24 **“(2) The Oregon Liquor Control Commission may take any action**
25 **before the operative date specified in subsection (1) of this section that**
26 **is necessary to enable the commission to exercise, on and after the**
27 **operative date specified in subsection (1) of this section, all the duties,**
28 **functions and powers conferred on the commission by sections 1 to 47**
29 **of this 2013 Act, the amendments to ORS 90.396, 453.858, 475.005, 475.525,**
30 **475.856, 475.860, 475.864, 475.900, 475.908, 475.910, 475.933 and 571.315 by**

1 sections 49 to 60 of this 2013 Act and the repeal of ORS 475.059 by sec-
2 tion 61 of this 2013 Act.

3 **“SECTION 64.** The section captions used in this 2013 Act are pro-
4 vided only for the convenience of the reader and do not become part
5 of the statutory law of this state or express any legislative intent in
6 the enactment of this 2013 Act.

7 **“SECTION 65.** This 2013 Act takes effect on the 91st day after the
8 date on which the 2013 regular session of the Seventy-seventh Legis-
9 lative Assembly adjourns sine die.”.

10
