

# Enrolled Senate Bill 844

Sponsored by Senator BURDICK, Representative LININGER

CHAPTER .....

AN ACT

Relating to marijuana; creating new provisions; amending ORS 475.302; and declaring an emergency.

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

### TASK FORCE

**SECTION 1.** (1) **The Task Force on Researching the Medical and Public Health Properties of Cannabis is established, consisting of 15 members appointed as follows:**

(a) **The President of the Senate shall appoint one member from among members of the Senate.**

(b) **The Speaker of the House of Representatives shall appoint one member from among members of the House of Representatives.**

(c) **The Governor shall appoint the following members:**

(A) **One member who represents the Oregon Liquor Control Commission and is knowledgeable about sections 3 to 70, chapter 1, Oregon Laws 2015;**

(B) **One member who represents the Oregon Health Authority and is knowledgeable about ORS 475.300 to 475.346;**

(C) **One member who represents the Department of Justice;**

(D) **One member who represents Oregon Health and Science University and is knowledgeable about at least one debilitating medical condition, as defined in ORS 475.302;**

(E) **One member who represents the Oregon University System and is knowledgeable about the availability of federal grants for researching cannabis;**

(F) **One member with expertise in agricultural research;**

(G) **One member with expertise in microbiology;**

(H) **One member with expertise in substance abuse treatment;**

(I) **One member with expertise in neurology;**

(J) **One member with expertise in oncology;**

(K) **One member with expertise in palliative care;**

(L) **One member who has been designated as a person responsible for a marijuana grow site under ORS 475.304; and**

(M) **One member with expertise in measuring tetrahydrocannabinol and cannabidiol levels and in identifying other cannabinoid compounds that have a potential effect on specific medical conditions.**

(2) The task force shall study and make a report on the development of a medical cannabis industry that provides patients with medical products that meet individual patient needs. The report must:

(a) Identify and assess the validity of research related to the medical properties of cannabis that have been conducted in other countries and in other states and territories of the United States;

(b) Assess the potential for this state to collaborate with other states that have legalized the medical or recreational use of cannabis for purposes related to researching the medical properties of cannabis;

(c) Identify key research areas related to the medical properties of cannabis;

(d) Identify legal barriers to the establishment of laboratories that research the medical properties of cannabis, including barriers related to the possession, delivery and manufacture of marijuana;

(e) Identify legal barriers to the use of institutional review boards in approving, monitoring and reviewing research involving the medical properties of cannabis;

(f) Propose solutions to structuring and funding research that involves the medical properties of cannabis, including solutions that involve state programs and moneys and solutions that involve investment by private businesses and business sectors; and

(g) Assess the potential of locating a cannabis grow site for research purposes in this state and, if appropriate, setting forth a plan for the establishment of a cannabis grow site for research purposes in this state.

(3) A majority of the 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 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 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:

(a) Submit a report updating the task force's progress in carrying out the duties of the task force pursuant to subsection (2) of this section, including any recommendations for legislation, in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to health, and any interim committee of the Legislative Assembly related to marijuana, no later than December 15, 2015; and

(b) Submit the report described in subsection (2) of this section, including any recommendations for legislation, in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to health, and any interim committee of the Legislative Assembly related to marijuana, no later than February 1, 2016.

(10) The Oregon Health Authority 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 the Oregon Health Authority 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.

## EXPUNGEMENT

**SECTION 2.** Notwithstanding ORS 419A.262 (2)(a), a person is eligible for an order of expunction under ORS 419A.262 if the person was adjudicated for committing an act that, if committed by an adult, would constitute a criminal offense in which possession, delivery or manufacture of marijuana is an element and:

(1) The court finds that at least one year has elapsed since the date of the person's most recent termination;

(2) The applicant has not been adjudicated or convicted for any other act or offense, excluding motor vehicle violations; and

(3) The applicant has complied with and performed all conditions of the adjudication.

**SECTION 3.** Notwithstanding ORS 137.225 (1)(a), a defendant is eligible for an order setting aside a conviction for a criminal offense in which possession, delivery or manufacture of marijuana is an element after one year has elapsed from the date of entry of judgment of conviction if:

(1) The defendant was under 21 years of age at the time of the conviction;

(2) The defendant has not been convicted of any other offense, excluding motor vehicle violations; and

(3) The defendant has fully complied with and performed the sentence of the court.

## REGISTRY IDENTIFICATION CARDHOLDER RIGHTS

**SECTION 4.** If House Bill 3400 becomes law, ORS 475.302, as amended by section 80, chapter \_\_\_, Oregon Laws 2015 (Enrolled House Bill 3400), 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) "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.

(6) "Debilitating medical condition" means:

(a) Cancer, glaucoma, [*agitation incident to Alzheimer's disease*] **a degenerative or pervasive neurological condition**, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of 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 filed under ORS 475.334.

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

(b) “Delivery” does not include transfer of marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer.

(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 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 a person’s attending physician.

(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.

(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, **chapter \_\_, Oregon Laws 2015 (Enrolled House Bill 3400)**, *[of this 2015 Act]* or a site for which an applicant has submitted an application for registration under section 85, **chapter \_\_, Oregon Laws 2015 (Enrolled House Bill 3400)** *[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.

(17) “Medical use of marijuana” means the production, processing, possession, delivery or administration of marijuana, or use of paraphernalia used to administer marijuana, to mitigate the symptoms or effects of a debilitating medical condition.

(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.

[20] (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.

[21] (22) "Registry identification cardholder" means a person to whom a registry identification card has been issued under ORS 475.309.

[21(a)] (23)(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 marijuana.

[22] (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.

**SECTION 5.** Section 6 of this 2015 Act is added to and made a part of ORS 475.300 to 475.346.

**SECTION 6.** (1) Notwithstanding ORS 475.312, an organization that provides hospice, palliative or home health care services, or a residential facility as defined in ORS 443.400, that has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition may be designated, in addition to an individual designated pursuant to ORS 475.312, as an additional caregiver for a registry identification cardholder in the same manner that an individual is designated as the primary caregiver for a registry identification cardholder under ORS 475.312.

(2) An organization or residential facility that is designated under this section has all the duties, functions and powers of a designated primary caregiver as prescribed by ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.

**SECTION 7.** Section 8 of this 2015 Act is added to and made a part of ORS 97.951 to 97.982.

**SECTION 8.** A transplant hospital may not deny a recipient from receiving an anatomical gift exclusively on the basis that the recipient is a registry identification cardholder as defined in ORS 475.302.

#### MISCELLANEOUS

**SECTION 9.** Section 1 of this 2015 Act is repealed on December 31, 2017.

**SECTION 10.** Sections 2 and 3 of this 2015 Act become operative on January 1, 2016.

**SECTION 11.** Sections 6 and 8 of this 2015 Act and the amendments to ORS 475.302 by section 4 of this 2015 Act become operative on March 1, 2016.

#### CAPTIONS

**SECTION 12.** 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 13.** 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 Senate July 2, 2015

.....  
Lori L. Brocker, Secretary of Senate

.....  
Peter Courtney, President of Senate

Passed by House July 6, 2015

.....  
Tina Kotek, Speaker of House

Received by Governor:

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

Approved:

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

.....  
Kate Brown, Governor

Filed in Office of Secretary of State:

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

.....  
Jeanne P. Atkins, Secretary of State