

Enrolled
House Bill 2197

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Joint Interim Committee on Marijuana Legalization)

CHAPTER

AN ACT

Relating to cannabis; creating new provisions; amending ORS 475B.700 and 475B.710; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 475B.700 to 475B.760.

SECTION 2. (1) The Department of Revenue may enter into an agreement with the governing body of a federally recognized Indian tribe that is qualified as described in this section for the purpose of making rebate payments for an estimate of the tax on marijuana items imposed under ORS 475B.705 as described in this section.

(2) The governing body of a federally recognized Indian tribe is qualified to enter into an agreement under this section if the governing body has entered into an agreement with the Governor, or the Governor's designee, pursuant to section 35, chapter 24, Oregon Laws 2016.

(3) The department shall provide rebates under this section for:

(a) Usable marijuana sold by a marijuana retailer that holds a license issued under ORS 475B.110 that is produced by a marijuana producer that is located on tribal trust land and licensed by the governing body of a federally recognized Indian tribe that has entered into an agreement with the Governor, or the Governor's designee, pursuant to section 35, chapter 24, Oregon Laws 2016, provided that the licensing of the marijuana producer comports with the agreement; and

(b) Cannabinoid concentrates, cannabinoid extracts or cannabinoid products sold by a marijuana retailer that holds a license issued under ORS 475B.110 that are processed by a marijuana processor that is located on tribal trust land and licensed by the governing body of a federally recognized Indian tribe that has entered into an agreement with the Governor, or the Governor's designee, pursuant to section 35, chapter 24, Oregon Laws 2016, provided that the licensing of the marijuana processor comports with the agreement.

(4) Payments made by the department to a federally recognized Indian tribe should represent the department's estimate of the amount of revenue generated under ORS 475B.705 attributable to marijuana items:

(a) Produced by a marijuana producer that is located on tribal trust land and licensed by the governing body of a federally recognized Indian tribe that has entered into an agreement with the Governor, or the Governor's designee, pursuant to section 35, chapter 24, Oregon Laws 2016, provided that the licensing of the marijuana producer comports with the agreement; or

(b) Processed by a marijuana processor that is located on tribal trust land and licensed by the governing body of a federally recognized Indian tribe that has entered into an agreement with the Governor, or the Governor's designee, pursuant to section 35, chapter 24, Oregon Laws 2016, provided that the licensing of the marijuana processor comports with the agreement.

(5) There is continuously appropriated from the suspense account established under ORS 475B.760 the amounts necessary to make rebates pursuant to an agreement entered into under this section.

SECTION 3. ORS 475B.700 is amended to read:

475B.700. As used in ORS 475B.700 to 475B.760:

(1) "Cannabinoid concentrate," "cannabinoid edible," "cannabinoid extract," "cannabinoid product," "consumer," "immature marijuana plant," "marijuana flowers," "marijuana items," "marijuana leaves," "**marijuana processor,**" "**marijuana producer,**" [and] "marijuana retailer" and "**usable marijuana**" have the meanings given those terms in ORS 475B.015.

(2) "Retail sale" means any transfer, exchange, gift or barter of a marijuana item by any person to a consumer.

(3) "Retail sales price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

SECTION 4. ORS 475B.710, as amended by section 7, chapter 91, Oregon Laws 2016, is amended to read:

475B.710. (1) Except as otherwise provided in ORS 475B.700 to 475B.760, the tax imposed upon the consumer under ORS 475B.705 shall be collected at the point of sale and remitted by each marijuana retailer that engages in the retail sale of marijuana items. The tax is **considered** a tax upon the marijuana retailer that is required to collect the tax, and the marijuana retailer is **considered** a taxpayer.

(2) The marijuana retailer shall file a return to the Department of Revenue on or before the last day of January, April, July and October of each year for the previous calendar quarter.

(3) The marijuana retailer shall pay the tax to the department in the form and manner prescribed by the department, but not later than with each quarterly return, without regard to an extension granted under subsection (5) of this section.

(4) Marijuana retailers shall file the returns required under this section regardless of whether any tax is owed.

(5) For good cause, the department may extend the time for filing a return under this section. The extension may be granted at any time if a written request is filed with the department during or prior to the period for which the extension may be granted. The department may not grant an extension of more than 30 days.

(6) Interest shall be added at the rate established under ORS 305.220 for each month, or fraction of a month, from the time the return was originally required to be filed to the time of payment.

(7) If a marijuana retailer fails to file a return or pay the tax as required by this section, the department shall impose a penalty in the manner provided in ORS 314.400.

(8) Except as provided in subsections (9) and (10) of this section, the period prescribed for the department to allow or make a refund of any overpayment of tax paid under ORS 475B.700 to 475B.760 is as provided in ORS 314.415.

(9)(a) The department shall first apply any overpayment of tax by a marijuana retailer to any marijuana tax that is owed by the marijuana retailer.

(b) If after any offset against any delinquent amount the overpayment of tax remains greater than \$1,000, the remaining refund shall be applied as a credit against the next subsequent calendar quarter as an estimated payment.

(10) The department may not make a refund of, or credit, any overpayment of tax under ORS 475B.700 to 475B.760 that was credited to the account of a marijuana retailer under subsection (9)(b) of this section if the return for that tax period is not filed within three years after the due date of that return.

SECTION 5. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House June 13, 2017

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

.....
Tina Kotek, Speaker of House

Passed by Senate June 20, 2017

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

.....
Dennis Richardson, Secretary of State