

# House Bill 2556

Sponsored by Representative HACK (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Restricts sale and delivery of marijuana paraphernalia. Creates violation for unlawful sale or delivery of marijuana paraphernalia. Punishes by maximum of \$2,000 fine.

## A BILL FOR AN ACT

1 Relating to cannabis; creating new provisions; and amending ORS 475.525 and 475B.305.

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

3 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 475B.010 to**  
4 **475B.395.**

5 **SECTION 2. (1) As used in this section, "marijuana paraphernalia" means an object that**  
6 **is marketed to be used for, or that is designed for, the purpose of planting, propagating,**  
7 **cultivating, growing, harvesting, manufacturing, compounding, converting, producing, pro-**  
8 **cessing, preparing, testing, analyzing, packaging, repackaging, storing, containing, conceal-**  
9 **ing, injecting, ingesting, inhaling or otherwise introducing into the human body a marijuana**  
10 **item.**

11 **(2)(a)(A) Except as otherwise provided in this subsection, a person may not sell or de-**  
12 **liver, possess with intent to sell or deliver or manufacture with intent to sell or deliver**  
13 **marijuana paraphernalia.**

14 **(B) A person may deliver for no consideration, possess with intent to deliver for no**  
15 **consideration, or manufacture with intent to deliver for no consideration, marijuana par-**  
16 **aphernalia to a person who is 21 years of age or older.**

17 **(C) A person may sell or deliver, possess with intent to sell or deliver or manufacture**  
18 **with intent to sell or deliver marijuana paraphernalia if the recipient or the intended recipi-**  
19 **ent of the marijuana paraphernalia is a marijuana retailer that holds a license issued under**  
20 **ORS 475B.110.**

21 **(D) An attending physician, marijuana grow site, marijuana processing site or medical**  
22 **marijuana dispensary, as those terms are defined in ORS 475B.410, may sell or deliver, pos-**  
23 **sess with intent to sell or deliver or manufacture with intent to sell or deliver marijuana**  
24 **paraphernalia if the recipient or the intended recipient of the marijuana paraphernalia is a**  
25 **registry identification cardholder, as defined in ORS 475B.410.**

26 **(E) A marijuana retailer that holds a license issued under ORS 475B.110 may sell or de-**  
27 **liver, possess with intent to sell or deliver or manufacture with intent to sell or deliver**  
28 **marijuana paraphernalia to a person who is 21 years of age or older.**

29 **(b) Violation of this subsection is a Class A violation.**

30 **(c) The Oregon Liquor Control Commission may purchase, possess, seize or dispose of**  
31

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **marijuana paraphernalia as is necessary for the commission to ensure compliance with and**  
 2 **enforce this section and any rule adopted under this section.**

3 (3)(a) **The provisions of ORS 475.525 to 475.565 do not apply to the sale or delivery, the**  
 4 **possession with intent to sell or deliver or the manufacture with intent to sell or deliver, of**  
 5 **marijuana paraphernalia as described in subsection (2)(a)(B), (C), (D) and (E) of this section.**

6 (b) **In determining whether an object is marijuana paraphernalia, a trier of fact in an**  
 7 **administrative or judicial proceeding must consider, in addition to any other relevant factor,**  
 8 **the following:**

9 (A) **Any instruction, oral or written, provided with the object that concerns the object's**  
 10 **use;**

11 (B) **Any descriptive material packaged with the object that explains or depicts the**  
 12 **object's use;**

13 (C) **Any national or local advertising that concern the object's use;**

14 (D) **Any proffered expert testimony that concerns the object's use;**

15 (E) **If applicable, the manner in which the object is displayed for sale; and**

16 (F) **Any other proffered evidence substantiating the object's intended use.**

17 **SECTION 3.** ORS 475B.305 is amended to read:

18 475B.305. (1) When an officer arrests a person for *[violation of]* **violating** ORS 475B.010 to  
 19 475B.395, the officer may take into possession *[all marijuana items]* **any marijuana item** and **any**  
 20 other property that the person *[so arrested has in possession]* **possesses**, or that is on the premises,  
 21 that is apparently being used, **sold or delivered** in violation of ORS 475B.010 to 475B.395.

22 (2) If a person arrested as described in this section is convicted, and the court finds that the  
 23 marijuana *[items]* **item** and other property have been used, **sold or delivered** in violation of *[the*  
 24 *laws of this state]* **ORS 475B.010 to 475B.395:**

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

28 (b) Subject to other applicable law, the other property must be forfeited to the Oregon Liquor  
 29 Control Commission[,], and must be delivered by the court, or **an officer at the direction of the**  
 30 **court**, to the commission.

31 (3) The commission is authorized to destroy or *[make such other disposition]* **otherwise dispose**  
 32 of any property *[it]* **the commission** receives under subsection (2)(b) of this section as *[it]* **the**  
 33 **commission** considers to be in the public interest. *[In any such case, all such property, including*  
 34 *furniture, furnishings, equipment and facilities for the storing, serving or using of marijuana items*  
 35 *must be confiscated and forfeited to the state, and the]* **Any** clear proceeds **resulting from the dis-**  
 36 **position of property pursuant to this subsection** must be *[deposited with]* **transferred to** the  
 37 State Treasury **for deposit** in the Common School Fund.

38 **SECTION 4.** ORS 475.525 is amended to read:

39 475.525. (1) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver  
 40 or manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used to  
 41 unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,  
 42 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or other-  
 43 wise introduce into the human body a controlled substance as defined by ORS 475.005.

44 (2) For the purposes of this section, "drug paraphernalia" means all equipment, products and  
 45 materials of any kind which are marketed for use or designed for use in planting, propagating, cul-

1 tivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, pre-  
 2 paring, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting,  
 3 ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation  
 4 of ORS 475.840 to 475.980. Drug paraphernalia includes, but is not limited to:

5 (a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating,  
 6 growing or harvesting of any species of plant which is a controlled substance or from which a con-  
 7 trolled substance can be derived;

8 (b) Kits marketed for use or designed for use in manufacturing, compounding, converting,  
 9 producing, processing or preparing controlled substances;

10 (c) Isomerization devices marketed for use or designed for use in increasing the potency of any  
 11 species of plant which is a controlled substance;

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

14 (e) Scales and balances marketed for use or designed for use in weighing or measuring con-  
 15 trolled substances;

16 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and  
 17 lactose, marketed for use or designed for use in cutting controlled substances;

18 (g) Separation gins and sifters marketed for use or designed for use in removing twigs and seeds  
 19 from, or in otherwise cleaning or refining marijuana;

20 (h) Containers and other objects marketed for use or designed for use in storing or concealing  
 21 controlled substances; and

22 (i) Objects marketed for use or designed specifically for use in ingesting, inhaling or otherwise  
 23 introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

24 (A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, per-  
 25 manent screens or hashish heads;

26 (B) Water pipes;

27 (C) Carburetion tubes and devices;

28 (D) Smoking and carburetion masks;

29 (E) Roach clips, meaning objects used to hold burning material that has become too small or too  
 30 short to be held in the hand, such as a marijuana cigarette;

31 (F) Miniature cocaine spoons and cocaine vials;

32 (G) Chamber pipes;

33 (H) Carburetor pipes;

34 (I) Electric pipes;

35 (J) Air-driven pipes;

36 (K) Chillums;

37 (L) Bonges;

38 (M) Ice pipes or chillers; and

39 (N) Lighting equipment specifically designed for the growing of controlled substances.

40 (3) "Drug paraphernalia" does not include hypodermic syringes or needles.

41 [(4) For the purposes of this section, "marijuana paraphernalia" means all equipment, products and  
 42 materials of any kind which are marketed for use or designed for use in planting, propagating, culti-  
 43 vating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing,  
 44 testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting,  
 45 inhaling or otherwise introducing into the human body marijuana in violation of ORS 475.840 to

1 475.980.]

2 [(5) *In determining whether an object is drug paraphernalia or marijuana paraphernalia, a trier*  
3 *of fact should consider, in addition to all other relevant factors, the following:*]

4 [(a) *Instructions, oral or written, provided with the object concerning its use;*]

5 [(b) *Descriptive materials accompanying the object which explain or depict its use;*]

6 [(c) *National and local advertising concerning its use;*]

7 [(d) *The manner in which the object is displayed for sale;*]

8 [(e) *The existence and scope of legitimate uses for the object in the community; and*]

9 [(f) *Any expert testimony which may be introduced concerning its use.*]

10 [(6)] (4) The provisions of ORS 475.525 to 475.565 do not apply to persons registered under the  
11 provisions of ORS 475.125 or to persons specified as exempt from registration under the provisions  
12 of that statute.

13 [(7) *The provisions of ORS 475.525 to 475.565 do not apply to a person who sells or delivers*  
14 *marijuana paraphernalia to a person 21 years of age or older.*]

15 **SECTION 5. Section 2 of this 2017 Act and the amendments to ORS 475.525 and 475B.305**  
16 **by sections 3 and 4 of this 2017 Act apply to conduct occurring on or after the effective date**  
17 **of this 2017 Act.**

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