

Enrolled Senate Bill 303

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CHAPTER

AN ACT

Relating to substances the sale of which is prohibited to minors; creating new provisions; amending ORS 419C.239, 419C.420, 419C.472, 471.430, 475B.260, 809.220 and 809.260; repealing ORS 419C.443; and declaring an emergency.

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

SECTION 1. ORS 471.430 is amended to read:

471.430. (1) A person under 21 years of age may not attempt to purchase, purchase or acquire alcoholic beverages. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of age may not have personal possession of alcoholic beverages.

(2) For the purposes of this section, personal possession of alcoholic beverages includes the acceptance or consumption of a bottle of such beverages, or any portion thereof or a drink of such beverages. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

(3) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

(4)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (1) or (3) of this section commits a Class B violation.

(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of personal possession of alcoholic beverages while the person is operating a motor vehicle[,] as defined in ORS 801.360.

(5) In addition to and not in lieu of any other penalty established by law[,]:

(a) The court may order a person [*under 21 years of age*] who violates subsection (1) of this section through misrepresentation of age [*may be required*] to perform community service; and [*the*

(b) The court shall order, when a person violates subsection (1) of this section, that the person's driving privileges and right to apply for driving privileges be suspended [*for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate.*] **pursuant to ORS 809.260 and 809.280.** The court notification **made** to the Department of Transportation under this [*subsection*] **paragraph** may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(6) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty **established by law**, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(7) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment as provided in ORS 471.432. The court shall order a person to undergo assessment and treatment as provided in ORS 471.432 if the person has previously been found to have violated this section.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(9) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(10)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance due to alcohol consumption and the evidence of the violation [*of this section*] was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance due to alcohol consumption and the evidence of the violation [*of this section*] was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

SECTION 2. ORS 475B.260 is amended to read:

475B.260. (1)(a) A person under 21 years of age may not **possess**, attempt to purchase[,] or purchase [*or acquire*] a marijuana item.

(b) For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and [*acquiring*] **possessing** a marijuana item includes consuming a marijuana item, provided that the consumption of the marijuana item occurred no more than 24 hours before the determination that the person consumed the marijuana item.

(2) Except as authorized by the Oregon Liquor Control Commission by rule, or as necessary in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a [*licensed*] premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

[3] (3)(a) **Except as provided in paragraph (b) of this subsection**, a person who violates subsection (1) or (2) of this section commits a Class B violation.

(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of possessing a marijuana item while the person is operating a motor vehicle as defined in ORS 801.360.

(4) In addition to and not in lieu of any other penalty established by law[,]:

(a) [A] **The** court may require a person [*under 21 years of age*] who violates subsection (1) of this section through misrepresentation of age to perform community service[,]; and [*the*]

(b) The court [*may*] **shall** order that, **when a person violates subsection (1) of this section**, the person's driving privileges and right to apply for driving privileges be suspended [*for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems*]

appropriate.] pursuant to **ORS 809.260 and 809.280**. The court notification **made** to the Department of Transportation under this [subsection] **paragraph** may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty **established by law**, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(6) In addition to and not in lieu of any penalty established by law, the court may order a person **who violates this section** to undergo assessment and treatment [*if the person has previously been found to have violated this section*]. **The court shall order a person to undergo assessment and treatment if the person has previously been found to have violated this section.**

(7) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(9)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a marijuana item and the evidence of the violation [*of this section*] was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance because the person consumed a marijuana item and the evidence of the violation [*of this section*] was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

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

SECTION 4. When a person is ordered to undergo assessment and treatment as provided in ORS 475B.260, the court shall require the person to do all of the following:

(1) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 475B.260.

(2) Complete an examination by an agency or organization designated by the court to determine whether the person has a problem condition involving marijuana as described in ORS 813.040. The designated agencies or organizations must meet minimum standards established under ORS 430.357 to perform the diagnostic assessment and treatment of problem marijuana use and must be certified by the Director of the Oregon Health Authority.

(3) Complete a treatment program, paid at the expense of the person convicted, as follows:

(a) If the examination required under this section shows that the person has a problem condition involving marijuana, a program for rehabilitation for problem marijuana use approved by the director.

(b) If the examination required by this section shows that the person does not have a problem condition involving marijuana, a marijuana information program approved by the director.

SECTION 5. ORS 419C.239, as amended by section 55, chapter 24, Oregon Laws 2016, is amended to read:

419C.239. (1) A formal accountability agreement shall:

- (a) Be completed within a period of time not to exceed one year;
- (b) Be voluntarily entered into by all parties;
- (c) Be revocable by the youth at any time by a written revocation;
- (d) Be revocable by the juvenile department in the event the department has reasonable cause to believe the youth has failed to carry out the terms of the formal accountability agreement or has committed a subsequent offense;
- (e) Not be used as evidence against the youth at any adjudicatory hearing;
- (f) Be executed in writing and expressed in language understandable to the persons involved;
- (g) Be signed by the juvenile department, the youth, the youth's parent or parents or legal guardian, and the youth's counsel, if any; **and**
- (h) Become part of the youth's juvenile department record[; and].

[(i) When the youth has been charged with having committed the youth's first violation of a provision under ORS 475.860 and unless the juvenile department determines that it would be inappropriate in the particular case:]

[(A) Require the youth to participate in a diagnostic assessment and an information or treatment program as recommended by the assessment. The agencies or organizations providing assessment or programs of information or treatment must be the same as those designated by the court under ORS 419C.443 (1) and must meet the standards set by the Director of the Oregon Health Authority. The parent of the youth shall pay the cost of the youth's participation in the program based upon the ability of the parent to pay.]

[(B) Monitor the youth's progress in the program which shall be the responsibility of the diagnostic assessment agency or organization. It shall make a report to the juvenile department stating the youth's successful completion or failure to complete all or any part of the program specified by the diagnostic assessment. The form of the report shall be determined by agreement between the juvenile department and the diagnostic assessment agency or organization. The juvenile department shall make the report a part of the record of the case.]

(2) Notwithstanding any other provision of law, the following information contained in a formal accountability agreement under ORS 419C.230 is not confidential and is not exempt from disclosure:

- (a) The name and date of birth of the youth;
- (b) The act alleged; and
- (c) The portion of the agreement providing for the disposition of the youth.

SECTION 5a. If Senate Bill 302 becomes law, section 5 of this 2017 Act (amending ORS 419C.239) is repealed and ORS 419C.239, as amended by section 55, chapter 24, Oregon Laws 2016, and section 105, chapter ___, Oregon Laws 2017 (Enrolled Senate Bill 302), is amended to read:

419C.239. (1) A formal accountability agreement shall:

- (a) Be completed within a period of time not to exceed one year;
- (b) Be voluntarily entered into by all parties;
- (c) Be revocable by the youth at any time by a written revocation;
- (d) Be revocable by the juvenile department in the event the department has reasonable cause to believe the youth has failed to carry out the terms of the formal accountability agreement or has committed a subsequent offense;
- (e) Not be used as evidence against the youth at any adjudicatory hearing;
- (f) Be executed in writing and expressed in language understandable to the persons involved;
- (g) Be signed by the juvenile department, the youth, the youth's parent or parents or legal guardian, and the youth's counsel, if any; **and**
- (h) Become part of the youth's juvenile department record[; and].

[(i) When the youth has been charged with having committed the youth's first violation of section 4 of this 2017 Act and unless the juvenile department determines that it would be inappropriate in the particular case:]

[(A) Require the youth to participate in a diagnostic assessment and an information or treatment program as recommended by the assessment. The agencies or organizations providing assessment or programs of information or treatment must be the same as those designated by the court under ORS 419C.443 (1) and must meet the standards set by the Director of the Oregon Health Authority. The parent of the youth shall pay the cost of the youth's participation in the program based upon the ability of the parent to pay.]

[(B) Monitor the youth's progress in the program which shall be the responsibility of the diagnostic assessment agency or organization. It shall make a report to the juvenile department stating the youth's successful completion or failure to complete all or any part of the program specified by the diagnostic assessment. The form of the report shall be determined by agreement between the juvenile department and the diagnostic assessment agency or organization. The juvenile department shall make the report a part of the record of the case.]

(2) Notwithstanding any other provision of law, the following information contained in a formal accountability agreement under ORS 419C.230 is not confidential and is not exempt from disclosure:

- (a) The name and date of birth of the youth;
- (b) The act alleged; and
- (c) The portion of the agreement providing for the disposition of the youth.

SECTION 6. ORS 419C.420, as amended by section 56, chapter 24, Oregon Laws 2016, is amended to read:

419C.420. If a youth is cited or summoned for a violation under ORS 471.430 or [475.860] **475B.260** and fails to appear, the court may adjudicate the citation or petition and enter a disposition without a hearing.

SECTION 6a. If Senate Bill 302 becomes law, section 6 of this 2017 Act (amending ORS 419C.420) is repealed and ORS 419C.420, as amended by section 56, chapter 24, Oregon Laws 2016, and section 106, chapter __, Oregon Laws 2017 (Enrolled Senate Bill 302), is amended to read:

419C.420. If a youth is cited or summoned for violating ORS 471.430, **475B.260** or section 4 [of this 2017 Act], chapter __, Oregon Laws 2017 (Enrolled Senate Bill 302), and fails to appear, the court may adjudicate the citation or petition and enter a disposition without a hearing.

SECTION 7. ORS 419C.472 is amended to read:

419C.472. (1) The court may order that the driving privileges of a youth be suspended if:

(a) The petition alleges that the youth is within the jurisdiction of the court for violating ORS 471.430 or **475B.260**;

(b) The youth has been issued a summons under ORS 419C.306; and

(c) The youth fails to appear as required by the summons.

(2) When a court issues an order under subsection (1) of this section:

(a) The court shall send a notice to the Department of Transportation certifying that the youth failed to appear and that the court has ordered the suspension of the driving privileges of the youth; and

(b) Neither the state nor a juvenile department counselor may file a petition under ORS 419C.250 alleging that the youth is within the jurisdiction of the court for having committed an act that if committed by an adult would constitute a violation of ORS 153.992.

SECTION 8. ORS 809.220 is amended to read:

809.220. This section establishes procedures that are applicable if a person fails to appear on a citation for a traffic offense or fails to appear on a citation for a violation of ORS 471.430 or **475B.260**. All of the following apply to this section:

(1) If a defendant fails to make any appearance required by the court or by law in a proceeding charging the defendant with a traffic offense or with a violation of ORS 471.430 or **475B.260**, the court:

(a) Shall issue notice to the Department of Transportation to suspend for failure to appear if the defendant is charged with a traffic crime or with a violation of ORS 471.430 **or 475B.260**. If a court issues notice under this paragraph, the department shall suspend the driving privileges of the person as provided under ORS 809.280.

(b) Shall issue notice to the department to implement procedures under ORS 809.416 if the defendant is charged with a traffic violation. If a court issues notice under this paragraph, the department shall implement procedures under ORS 809.416.

(2) In any notice to the department under this section, a court shall certify that the defendant failed to appear in the proceedings in the manner required by the court or by law.

(3) At any time within 10 years from the date the traffic offense or violation of ORS 471.430 **or 475B.260** occurred, a court shall give a second notice to the department to reinstate the person's suspended driving privileges resulting from the original notice if any of the following occur:

(a) The fine for the offense is paid or the defendant has begun making payments.

(b) The court finds the defendant not guilty or orders a dismissal of the case.

(c) The court determines that the person's suspended driving privileges should be reinstated for good cause.

(4) The court may reissue a notice of suspension if the person ceases making payments before the fine is paid in full. The reissuance does not extend the original period of suspension.

(5) Notifications by a court to the department under this section shall be in a form prescribed by the department.

(6) A court may not notify the department under this section for failure to appear on any parking, pedestrian or bicyclist offense.

SECTION 9. ORS 809.260 is amended to read:

809.260. (1) Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, is convicted of any offense described in this subsection or determined by a juvenile court to have committed one of the described offenses, the court [*in which the person is convicted*] shall order suspension of the person's driving privileges. This subsection applies to ORS 166.370 and to any offense involving the delivery, manufacture or possession of controlled substances.

(2) Whenever a person who is 20 years of age or younger, but not younger than 13 years of age, at the time of committing any offense described in this subsection, is convicted or determined by a juvenile court to have committed one of the described offenses, the court [*in which the person is convicted*] shall order suspension of the person's driving privileges. This subsection applies to any offense involving the possession, use or abuse of alcohol **or cannabis**.

(3) If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(c) Notwithstanding paragraph (a) of this subsection, a court may not withdraw an order for a period of six months if the order is based on a determination or conviction involving controlled substances.

(4) Upon receipt of an order under this section, the department shall take action as directed under ORS 809.280.

SECTION 10. ORS 419C.443 is repealed.

SECTION 10a. Notwithstanding section 107, chapter ___, Oregon Laws 2017 (Enrolled Senate Bill 302) (amending ORS 419C.443), if Senate Bill 302 becomes law, ORS 419C.443 is repealed by section 10 of this 2017 Act.

SECTION 11. (1) The amendments to ORS 475B.260 (3) and (4) by section 2 of this 2017 Act apply to conduct occurring on or after the effective date of this 2017 Act.

(2) The amendments to ORS 419C.239, 419C.420, 419C.472, 471.430, 475B.260, 809.220 and 809.260 by sections 1, 2 and 5 to 9 of this 2017 Act that are not specified in subsection (1) of this section and the repeal of ORS 419C.443 by section 10 of this 2017 Act apply to conduct occurring before, on or after the effective date of this 2017 Act.

SECTION 12. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by Senate March 14, 2017

Received by Governor:

Repassed by Senate April 11, 2017

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

Approved:

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Lori L. Brocker, Secretary of Senate

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

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Peter Courtney, President of Senate

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Kate Brown, Governor

Passed by House April 6, 2017

Filed in Office of Secretary of State:

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

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Tina Kotek, Speaker of House

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Dennis Richardson, Secretary of State