

Enrolled
Senate Bill 56

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CHAPTER

AN ACT

Relating to cannabis; creating new provisions; amending ORS 471.775, 475B.045, 475B.110, 475B.135 and 475B.210 and section 2, chapter 18, Oregon Laws 2017 (Enrolled Senate Bill 863); repealing section 17, chapter ___, Oregon Laws 2017 (Enrolled House Bill 2198); and declaring an emergency.

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

**IMMEDIATE SUSPENSION OF LICENSE FOR
DIVERTING MARIJUANA ITEMS INTO BLACK MARKET**

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

SECTION 2. (1) The Legislative Assembly finds and declares that the unregulated commerce of marijuana items constitutes a serious danger to public health and safety.

(2) In addition to any other disciplinary action available to the Oregon Liquor Control Commission under ORS 475B.010 to 475B.395, the commission may immediately restrict, suspend or refuse to renew a license issued under ORS 475B.010 to 475B.395 if circumstances create probable cause for the commission to conclude that a licensee has purchased or received a marijuana item from an unlicensed source or that a licensee has sold, stored or transferred a marijuana item in a manner that is not permitted by the licensee's license.

VERIFICATION OF LAWFUL ACTIVITY

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

SECTION 4. The Oregon Liquor Control Commission shall maintain a telephone hotline for the following persons to inquire if an address is the location of a premises for which a license has been issued under ORS 475B.010 to 475B.395 or is the location of a premises for which an application for licensure has been submitted under ORS 475B.040:

- (1) A person designated by a city or a county;
- (2) A person designated by the Water Resources Department; and
- (3) A person designated by the watermaster of any water district.

SECTION 5. Section 6 of this 2017 Act is added to and made a part of ORS 475B.400 to 475B.525.

SECTION 6. (1) The Oregon Health Authority shall maintain a telephone hotline for the following persons to inquire if an address is the location of a marijuana grow site, marijuana processing site or medical marijuana dispensary or is the proposed location of a marijuana grow site, marijuana processing site or medical marijuana dispensary:

- (a) A person designated by a city or a county;
- (b) A person designated by the Water Resources Department; and
- (c) A person designated by the watermaster of any water district.

(2) The authority may disclose the address of a marijuana grow site for purposes of this section notwithstanding ORS 475B.460.

PROCESSING BY SMALL PRODUCERS

SECTION 7. Section 8 of this 2017 Act is added to and made a part of ORS 475B.010 to 475B.395.

SECTION 8. (1) Notwithstanding ORS 475B.090, a marijuana producer that holds a license issued under ORS 475B.070 and has a mature marijuana plant grow canopy described in subsection (2) of this section may process marijuana into a cannabinoid concentrate if the process involves separating cannabinoids from marijuana by:

- (a) A mechanical process; or
- (b) An extraction process using water as the solvent.

(2) To be eligible to process marijuana into a cannabinoid concentrate under this section, a marijuana producer must have a mature marijuana plant grow canopy, as restricted by the Oregon Liquor Control Commission under ORS 475B.075, that does not exceed:

- (a) For marijuana grown outdoors, 5,000 square feet; or
- (b) For marijuana grown indoors, 1,250 square feet.

(3) The processing of marijuana under this section must comport with any reasonable condition adopted under ORS 475B.340 that is imposed on the manner in which a marijuana processor licensed under ORS 475B.090 may process marijuana.

SECTION 9. ORS 475B.135, as amended by section 60, chapter 183, Oregon Laws 2017 (Enrolled Senate Bill 1057), is amended to read:

475B.135. As is necessary to protect the public health and safety, the Oregon Liquor Control Commission may require a premises licensed under ORS 475B.010 to 475B.395 to be segregated into separate areas:

(1) For conducting the activities permitted under each license, if the licensee holds more than one license issued under ORS 475B.010 to 475B.395 for the same premises; [or]

(2) For conducting activities related to processing marijuana into different types of cannabinoid products, cannabinoid concentrates or cannabinoid extracts, if the licensee is a marijuana processor that holds a license issued under ORS 475B.090 and that processes marijuana into any combination of different types of products, concentrates and extracts; or

(3) For producing marijuana and processing marijuana as described in section 8 of this 2017 Act if the licensee is a marijuana producer that holds a license issued under ORS 475B.070 and that processes marijuana as described in section 8 of this 2017 Act.

IMMATURE MARIJUANA PLANT LIMITATIONS

SECTION 10. The limitations on the number of immature marijuana plants that may be located at an address as set forth in ORS 475B.428 (3) to (6) do not apply, except as provided by the Oregon Liquor Control Commission by rule, to a premises for which an application has been made under ORS 475B.040 on or before the effective date of this 2017 Act for a li-

cense to produce marijuana under ORS 475B.070 until the license is issued or the application is denied.

EXCLUSIVELY MEDICAL LICENSEES

SECTION 11. If a city or county enacts or has enacted an ordinance prohibiting or allowing marijuana processing sites registered under ORS 475B.435 or medical marijuana dispensaries registered under ORS 475B.450, the governing body of the city or the county may amend the ordinance, without referring the amendment to the electors of the city or county under ORS 475B.800, to prohibit or allow the premises of a licensee, as those terms are defined in ORS 475B.015, that has been designated an exclusively medical licensee under section 24, 25, 26 or 27, chapter 183, Oregon Laws 2017 (Enrolled Senate Bill 1057).

SECTION 11a. If House Bill 2198 becomes law, section 17, chapter __, Oregon Laws 2017 (Enrolled House Bill 2198) (amending ORS 475B.460), is repealed.

AMENDMENTS TO STATUTES AND SESSION LAW

SECTION 12. ORS 475B.045 is amended to read:

475B.045. (1) The Oregon Liquor Control Commission may not license an applicant under the provisions of ORS 475B.010 to 475B.395 if the applicant is under 21 years of age.

(2) The commission may refuse to **issue a license or may issue a restricted license** to an applicant under the provisions of ORS 475B.010 to 475B.395 if the commission [*has reasonable ground to believe*] **makes a finding** that the applicant:

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

(b) Has made false statements to the commission.

(c) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(d) Has been convicted of violating a [*general or local law of this state or another state, or of violating a federal law,*] **federal law, state law or local ordinance** if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

(e) Is not of good repute and moral character.

(f) Does not have a good record of compliance with ORS 475B.010 to 475B.395 or any rule [*of the commission*] adopted under ORS 475B.010 to 475B.395.

(g) Is not the legitimate owner of the [*business*] **premises** proposed to be licensed, or **has not disclosed that** other persons have ownership interests in the [*business that have not been disclosed.*] **premises proposed to be licensed.**

(h) [*Is not possessed of or*] Has not demonstrated financial responsibility sufficient to adequately meet the requirements of the [*business*] **premises** proposed to be licensed.

(i) Is unable to understand the laws of this state relating to marijuana **items** or the rules [*of the commission relating to marijuana*] **adopted under ORS 475B.010 to 475B.395.**

(3) Notwithstanding subsection (2)(d) of this section, in determining whether [*the commission may refuse*] to **issue a license or a restricted license** to an applicant, the commission may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent or other representative of the applicant for:

(a) The manufacture of marijuana, if:

(A) The date of the conviction is two or more years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture or delivery of marijuana;

(b) The delivery of marijuana to a person 21 years of age or older, if:

(A) The date of the conviction is two or more years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture or delivery of marijuana; or

(c) The possession of marijuana.

SECTION 13. ORS 475B.110, as amended by section 4, chapter 24, Oregon Laws 2016, and section 10, chapter 83, Oregon Laws 2016, is amended to read:

475B.110. (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. To hold a retail license under this section, a marijuana retailer:

(a) Must apply for a license in the manner described in ORS 475B.040;

(b) Must provide proof that the applicant is 21 years of age or older;

(c) May not be located in an area that is zoned exclusively for residential use;

(d) Except as provided in section 29b, chapter 83, Oregon Laws 2016, may not be located within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana retailer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana retailers;

(c) Require marijuana items sold by a marijuana retailer to be tested in accordance with ORS 475B.555;

(d) Notwithstanding ORS 475B.160, allow a marijuana retailer to deliver marijuana items to another marijuana retailer that is owned by the same or substantially the same persons;

[(d)] (e) Subject to the limitations and privileges described in section 5 (4), chapter 83, Oregon Laws 2016, allow a marijuana retailer registered under section 5, chapter 83, Oregon Laws 2016, to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana retailer to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

[(e)] (f) Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 14. ORS 475B.210 is amended to read:

475B.210. The Oregon Liquor Control Commission may revoke *[or]*, suspend **or restrict** a license issued under ORS 475B.010 to 475B.395 **or require a licensee or licensee representative to undergo training** if the commission finds or has reasonable ground to believe any of the following to be true:

(1) That the licensee **or licensee representative**:

(a) Has violated a provision of ORS 475B.010 to 475B.395 or a rule *[of the commission]* adopted under ORS 475B.010 to 475B.395.

(b) Has made any false representation or statement to the commission in order to induce or prevent action by the commission.

(c) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

(d) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana or controlled substances to excess.

(e) Has misrepresented to a customer or the public any marijuana items sold by the licensee **or licensee representative.**

(f) Since the *[granting]* **issuance** of the license, has been convicted of a felony, of violating any of the marijuana laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the *[licensed]* premises **for which the license has been issued.**

(2) That there is any other reason that, in the opinion of the commission, based on public convenience or necessity, warrants *[canceling]* **revoking**, *[or]* suspending **or restricting** the license.

SECTION 15. If Senate Bill 1057 becomes law, ORS 471.775, as amended by section 20, chapter 24, Oregon Laws 2016, and section 110, chapter 21, Oregon Laws 2017 (Enrolled Senate Bill 302), is amended to read:

471.775. (1) The provisions of ORS 183.440 shall apply to subpoenas issued by each member of the Oregon Liquor Control Commission or any of its authorized agents.

(2) Subject to subsection (3) of this section, regulatory specialists have authority as provided under this chapter, ORS chapter 153, ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.235, 161.239, 161.245[, *475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655*] and chapter 743, Oregon Laws 1971, to conduct inspections or investigations, make arrests and seizures, aid in prosecutions for offenses, issue criminal citations and citations for violations and otherwise enforce this chapter, ORS 474.005 to 474.095[, **and** 474.115, *[475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655,*] commission rules and any other laws of this state that the commission considers related to alcoholic liquor, *[marijuana and marijuana-derived products,*] including but not limited to:

(a) Laws regarding the production, processing, manufacture, importation, transportation, possession, distribution, sale or consumption of alcoholic beverages[, *marijuana or marijuana-derived products*];

(b) The manufacture or use of false identification; or

(c) The entry of premises licensed to sell alcoholic liquor[, *marijuana or marijuana-derived products*].

(3) A regulatory specialist may not:

(a) Be sworn in as a federal law enforcement official and act in that capacity while performing duties under subsection (2) of this section; **or**

(b) Carry a firearm[;].

[(c) Conduct inspections and investigations of a primary residence or for purposes of ensuring compliance with ORS 475B.245 and 475B.375; or]

[(d) Except as provided under the provisions of ORS 475B.010 to 475B.395, conduct inspections and investigations for purposes of ensuring compliance with ORS 475B.400 to 475B.525.]

SECTION 16. Section 2, chapter 18, Oregon Laws 2017 (Enrolled Senate Bill 863), is amended to read:

Sec. 2. (1) As used in this section, “information that may be used to identify a consumer” means information that may be acquired through the production of a piece of identification as described in ORS 475B.170, whether the information is contained in a piece of identification described in ORS 475B.170 or in a different document or record.

(2) A consumer may not be required to procure for the purpose of acquiring or purchasing a marijuana item a piece of identification other than:

(a) A piece of identification described in ORS 475B.170; and

(b) If the consumer is a registry identification cardholder, as defined in ORS 475B.410, a registry identification card, as defined in ORS 475B.410.

(3) A marijuana retailer may not record and retain any information that may be used to identify a consumer, **except as necessary to make deliveries to consumers pursuant to ORS 475B.160 (3), as required by any rules adopted under ORS 475B.160 (3).**

(4) A marijuana retailer may not transfer any information that may be used to identify a consumer to any other person.

(5)(a) Notwithstanding subsection (3) of this section, a marijuana retailer may record and retain the name and contact information of a consumer for the purpose of notifying the consumer of services that the marijuana retailer provides or of discounts, coupons and other marketing information if:

(A) The marijuana retailer asks the consumer whether the marijuana retailer may record and retain the information; and

(B) The consumer consents to the recording and retention of the information.

(b) This subsection does not authorize a marijuana retailer to transfer information that may be used to identify a consumer.

(6) This section does not apply to deidentified information the documentation and transfer of which is required by the Department of Revenue for purposes of section 2, chapter 91, Oregon Laws 2016.

OPERATIVE DATE FOR SECTIONS 4 AND 6 OF ACT

SECTION 17. (1) Sections 4 and 6 of this 2017 Act become operative on January 1, 2018.

(2) The Oregon Liquor Control Commission and the Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the commission and the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the commission and the authority by sections 4 and 6 of this 2017 Act.

CAPTIONS

SECTION 18. The unit captions used in this 2017 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 2017 Act.

EFFECTIVE DATE

SECTION 19. 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 June 14, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 20, 2017

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Tina Kotek, Speaker of House

Received by Governor:

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

Approved:

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

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Kate Brown, Governor

Filed in Office of Secretary of State:

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

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Dennis Richardson, Secretary of State