

Senate Bill 875

Sponsored by JOINT COMMITTEE ON MARIJUANA REGULATION

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**.

Allows testing of marijuana items by laboratories certified by United States Department of Agriculture for purpose related to applicable requirements, specifications and guidelines for testing marijuana items, as identified by Oregon Health Authority by rule.

Takes effect on 91st day after adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to cannabis; amending ORS 475B.555, 475B.560, 475B.565 and 475B.590 and section 9,
3 chapter 71, Oregon Laws 2016, and section 2, chapter 97, Oregon Laws 2016; and prescribing
4 an effective date.

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

6 **SECTION 1.** ORS 475B.555 is amended to read:

7 475B.555. (1) As is necessary to protect the public health and safety, and in consultation with
8 the Oregon Liquor Control Commission and the State Department of Agriculture, the Oregon Health
9 Authority shall adopt rules:

10 (a) Establishing standards for testing marijuana items.

11 (b) Identifying appropriate tests for marijuana items, depending on the type of marijuana item
12 and the manner in which the marijuana item was produced or processed, that are necessary to
13 protect the public health and safety, including, but not limited to, tests for:

14 (A) Microbiological contaminants;

15 (B) Pesticides;

16 (C) Other contaminants;

17 (D) Solvents or residual solvents; and

18 (E) Tetrahydrocannabinol and cannabidiol concentration.

19 (c) Establishing procedures for determining batch sizes and for sampling usable marijuana,
20 cannabinoid products and cannabinoid concentrates or extracts.

21 (d) Establishing different minimum standards for different varieties of usable marijuana and dif-
22 ferent types of cannabinoid products and cannabinoid concentrates and extracts.

23 (2) In addition to the testing requirements established under subsection (1) of this section, the
24 authority or the commission may require cannabinoid edibles to be tested in accordance with any
25 applicable law of this state, or any applicable rule adopted under a law of this state, related to the
26 production and processing of food products or commodities.

27 (3) In adopting rules under ORS 475B.400 to 475B.525, the authority may require:

28 (a) A person responsible for a marijuana grow site under ORS 475B.420 to test usable marijuana
29 before transferring the usable marijuana to a registrant other than an individual who holds a reg-
30 istry identification card under ORS 475B.415; and

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 (b) A person processing marijuana to test cannabinoid products or cannabinoid concentrates or
 2 extracts before transferring the cannabinoid products or cannabinoid concentrates or extracts to a
 3 registrant other than an individual who holds a registry identification card under ORS 475B.415.

4 (4) In adopting rules under ORS 475B.010 to 475B.395, the commission may require:

5 (a) A marijuana producer that holds a license under ORS 475B.070 or a marijuana wholesaler
 6 that holds a license under ORS 475B.100 to test usable marijuana before selling or transferring the
 7 usable marijuana; and

8 (b) A marijuana processor that holds a license under ORS 475B.090 or a marijuana wholesaler
 9 that holds a license under ORS 475B.100 to test cannabinoid products or cannabinoid concentrates
 10 or extracts before selling or transferring the cannabinoid products or cannabinoid concentrates or
 11 extracts.

12 (5) The authority and the commission may conduct random testing of marijuana items for the
 13 purpose of determining whether a person subject to testing under subsection (3) of this section or
 14 a licensee subject to testing under subsection (4) of this section is in compliance with this section.

15 (6) In adopting rules to implement this section, the authority and commission may not require
 16 a marijuana item to undergo the same test more than once unless the marijuana item is processed
 17 into a different type of marijuana item or the condition of the marijuana item has fundamentally
 18 changed.

19 (7) The testing of marijuana items as required by this section must be conducted by:

20 (a) A laboratory licensed by the commission under ORS 475B.560 and accredited by the au-
 21 thority under ORS 475B.565[.]; **or**

22 (b) **A laboratory certified by the United States Department of Agriculture for a purpose**
 23 **related to applicable requirements, specifications and guidelines for testing marijuana items,**
 24 **as identified by the authority by rule.**

25 (8) In adopting rules under subsection (1) of this section, the authority:

26 (a) Shall consider the cost of a potential testing procedure and how that cost will affect the cost
 27 to the ultimate consumer of the marijuana item; and

28 (b) May not adopt rules that are more restrictive than is reasonably necessary to protect the
 29 public health and safety.

30 **SECTION 2.** ORS 475B.560 is amended to read:

31 475B.560. (1) A laboratory that conducts testing of marijuana items as required by ORS
 32 475B.555:

33 (a) Must have a license to operate at the premises at which the marijuana items are tested[.];
 34 **or**

35 (b) **Must be certified by the United States Department of Agriculture for a purpose re-**
 36 **lated to applicable requirements, specifications and guidelines for testing marijuana items,**
 37 **as identified by the Oregon Health Authority by rule.**

38 (2) For purposes of this section, the Oregon Liquor Control Commission shall adopt rules es-
 39 tablishing:

40 (a) Qualifications to be licensed under this section, including that an applicant for licensure
 41 under this section must be accredited by the [*Oregon Health*] authority as described in ORS
 42 475B.565;

43 (b) Processes for applying for and renewing a license under this section;

44 (c) Fees for applying for, receiving and renewing a license under this section; and

45 (d) Procedures for:

1 (A) Tracking usable marijuana, cannabinoid products and cannabinoid concentrates or extracts
2 to be tested;

3 (B) Documenting and reporting test results; and

4 (C) Disposing of samples of usable marijuana, cannabinoid products and cannabinoid concen-
5 trates or extracts that have been tested.

6 (3) A license issued under this section must be renewed annually.

7 (4) The commission may inspect premises licensed under this section to ensure compliance with
8 ORS 475B.550 to 475B.590 and rules adopted under ORS 475B.550 to 475B.590.

9 (5) Subject to the applicable provisions of ORS chapter 183, the commission may refuse to issue
10 or renew, or may suspend or revoke, a license issued under this section for violation of:

11 (a) A provision of ORS 475B.550 to 475B.590 or a rule adopted under a provision of ORS
12 475B.550 to 475B.590; or

13 (b) A provision of ORS 475B.010 to 475B.395 or a rule adopted under a provision of ORS
14 475B.010 to 475B.395.

15 (6) Fees adopted under subsection (2)(c) of this section must be reasonably calculated to pay the
16 expenses incurred by the commission under ORS 475B.550 to 475B.590.

17 (7) Fee moneys collected under this section shall be deposited in the Marijuana Control and
18 Regulation Fund established under ORS 475B.240 and are continuously appropriated to the commis-
19 sion for the purpose of carrying out the duties, functions and powers of the commission under ORS
20 475B.550 to 475B.590.

21 **SECTION 3.** ORS 475B.565 is amended to read:

22 475B.565. (1) A laboratory that conducts testing of marijuana items as required by ORS
23 475B.555:

24 (a) Must be accredited under ORS 438.605 to 438.620 and meet other qualifications as estab-
25 lished by the Oregon Health Authority under this section[.]; or

26 (b) **Must be certified by the United States Department of Agriculture for a purpose re-**
27 **lated to applicable requirements, specifications and guidelines for testing marijuana items,**
28 **as identified by the authority by rule.**

29 (2) In addition to other qualifications required pursuant to ORS 438.605 to 438.620, the authority
30 shall require an applicant for accreditation under ORS 438.605 to 438.620 for purposes related to the
31 testing of marijuana items to:

32 (a) Complete an application;

33 (b) Undergo an onsite inspection; and

34 (c) Meet other applicable requirements, specifications and guidelines for testing marijuana items,
35 as [*determined to be appropriate*] **identified** by the authority by rule.

36 (3) The authority may inspect premises licensed under ORS 475B.560 to ensure compliance with
37 ORS 475B.550 to 475B.590 and rules adopted under ORS 475B.550 to 475B.590.

38 (4) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue
39 or renew, or may suspend or revoke, a laboratory's accreditation granted under this section and
40 ORS 438.605 to 438.620 for violation of:

41 (a) A provision of ORS 475B.550 to 475B.590 or a rule adopted under a provision of ORS
42 475B.550 to 475B.590; or

43 (b) A provision of ORS 475B.010 to 475B.395 or a rule adopted under a provision of ORS
44 475B.010 to 475B.395.

45 (5) In establishing fees under ORS 438.620 for laboratories that test marijuana items, the au-

1 thority shall establish fees that are reasonably calculated to pay the expenses incurred by the au-
2 thority under this section and ORS 438.605 to 439.620 in accrediting laboratories that test marijuana
3 items.

4 **SECTION 4.** ORS 475B.590 is amended to read:

5 475B.590. A person [*who*] **that** holds a license under ORS 475B.560 **or that is certified by the**
6 **United States Department of Agriculture as described in ORS 475B.555**, and an employee of or
7 other person who performs work for a person [*who*] **that** holds a license under ORS 475B.560 **or**
8 **that is certified by the United States Department of Agriculture as described in ORS**
9 **475B.555**, are exempt from the criminal laws of this state for possession, delivery or manufacture
10 of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana,
11 or any other criminal offense in which possession, delivery or manufacture of marijuana is an ele-
12 ment, while performing activities related to testing as described in ORS 475B.550 to 475B.590.

13 **SECTION 5.** Section 9, chapter 71, Oregon Laws 2016, is amended to read:

14 **Sec. 9.** (1) For purposes of this section, “consumption” means to ingest, inhale or topically apply
15 to the skin or hair.

16 (2) A laboratory licensed by the Oregon Liquor Control Commission under ORS 475B.560 and
17 accredited by the Oregon Health Authority pursuant to ORS 475B.565, **or a laboratory certified**
18 **by the United States Department of Agriculture as described in ORS 475B.555**, may test in-
19 dustrial hemp and industrial hemp commodities and products produced or processed by a grower,
20 handler or agricultural hemp seed producer registered under ORS 571.305.

21 (3) A handler registered under ORS 571.305 may not sell an industrial hemp commodity or
22 product that is intended for human consumption unless the commodity or product is tested by a
23 laboratory described in subsection (2) of this section to ensure that the commodity or product meets
24 the requirements adopted by the Oregon Health Authority under ORS 475B.555 (1)(a) and (b) and (2)
25 for testing marijuana items.

26 (4) For purposes of this section, the State Department of Agriculture shall adopt rules:

27 (a) Establishing protocols for the testing of industrial hemp commodities and products; and

28 (b) Establishing procedures for determining batch sizes and for sampling industrial hemp com-
29 modities and products.

30 **SECTION 6.** Section 2, chapter 97, Oregon Laws 2016, is amended to read:

31 **Sec. 2.** A financial institution that provides financial services customarily provided by financial
32 institutions pursuant to powers granted by ORS 717.200 to 717.320, 717.900 and 717.905, the Bank
33 Act or by ORS chapter 723 to a marijuana processing site registered under ORS 475B.435, a medical
34 marijuana dispensary registered under ORS 475B.450, a marijuana producer that holds a license
35 under ORS 475B.070, a marijuana processor that holds a license under ORS 475B.090, a marijuana
36 wholesaler that holds a license under ORS 475B.100, a marijuana retailer that holds a license under
37 ORS 475B.110, a laboratory that holds a license under ORS 475B.560, **a laboratory that is certified**
38 **by the United States Department of Agriculture as described in ORS 475B.555** or a person to
39 whom a permit has been issued under ORS 475B.218 is exempt from any criminal law of this state
40 an element of which may be proven by substantiating that a person provides financial services cus-
41 tomarily provided by financial institutions pursuant to powers granted by ORS 717.200 to 717.320,
42 717.900 and 717.905, the Bank Act or ORS chapter 723 to a person who possesses, delivers or man-
43 ufactures marijuana or marijuana derived products.

44 **SECTION 7.** This 2017 Act takes effect on the 91st day after the date on which the 2017
45 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

