

Chapter 475B

2017 EDITION

Cannabis Regulation

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RECREATIONAL USE OF CANNABIS
(Generally)

475B.005 Purposes of ORS 475B.010 to 475B.545. (1) The People of the State of Oregon declare that the purposes of ORS 475B.010 to 475B.545 are:

(a) To eliminate the problems caused by the prohibition and uncontrolled manufacture, delivery and possession of marijuana within this state;

(b) To protect the safety, welfare, health and peace of the people of this state by prioritizing this state's limited law enforcement resources in the most effective, consistent and rational way;

(c) To permit persons licensed, controlled and regulated by this state to legally manufacture and sell marijuana to persons 21 years of age and older, subject to the provisions of ORS 475B.010 to 475B.545; and

(d) To establish a comprehensive regulatory framework concerning marijuana under existing state law.

(2) The People of the State of Oregon intend that the provisions of ORS 475B.010 to 475B.545, together with other provisions of state law, will:

(a) Prevent the distribution of marijuana to persons under 21 years of age;

(b) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;

(c) Prevent the diversion of marijuana from this state to other states;

(d) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(e) Prevent violence and the use of firearms in association with the cultivation and distribution of marijuana;

(f) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(g) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(h) Prevent the possession and use of marijuana on federal property. [2015 c.1 §1; 2015 c.614 §35; 2016 c.71 §13]

475B.010 Short title. ORS 475B.010 to 475B.545 shall be known and may be cited as the Adult and Medical Use of Cannabis Act. [2015 c.1 §3; 2015 c.614 §37; 2017 c.183 §1]

475B.015 Definitions for ORS 475B.010 to 475B.545. As used in ORS 475B.010 to 475B.545:

(1) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(2) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

(a) A mechanical extraction process;

(b) A chemical extraction process using a nonhydrocarbon-based solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

(c) A chemical extraction process using carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

(d) Any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

(3) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

(4) "Cannabinoid extract" means a substance obtained by separating cannabinoids from marijuana by:

(a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;

(b) A chemical extraction process using carbon dioxide, if the process uses high heat or pressure; or

(c) Any other process identified by the commission, in consultation with the authority, by rule.

(5)(a) "Cannabinoid product" means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers.

(b) "Cannabinoid product" does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate by itself;

(C) A cannabinoid extract by itself; or

(D) Industrial hemp, as defined in ORS 571.300.

(6) "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.

(7) "Deliver" means the actual, constructive or attempted transfer from one person to another of a marijuana item, whether or not there is an agency relationship.

(8) “Designated primary caregiver” has the meaning given that term in ORS 475B.791.

(9)(a) “Financial consideration” means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.

(b) “Financial consideration” does not include marijuana, cannabinoid products or cannabinoid concentrates that are delivered within the scope of and in compliance with ORS 475B.301.

(10) “Homegrown” means grown by a person 21 years of age or older for noncommercial purposes.

(11) “Household” means a housing unit and any place in or around a housing unit at which the occupants of the housing unit are producing, processing, possessing or storing homegrown marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

(12) “Housing unit” means a house, an apartment or a mobile home, or a group of rooms or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and that has direct access from the outside of the building or through a common hall.

(13) “Immature marijuana plant” means a marijuana plant that is not flowering.

(14) “Licensee” means a person that holds a license issued under ORS 475B.070, 475B.090, 475B.100 or 475B.105.

(15) “Licensee representative” means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

(16)(a) “Manufacture” means producing, propagating, preparing, compounding, converting or processing a marijuana item, either directly or indirectly, by extracting from substances of natural origin.

(b) “Manufacture” includes any packaging or repackaging of a marijuana item or the labeling or relabeling of a container containing a marijuana item.

(17)(a) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and marijuana seeds.

(b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300.

(18) “Marijuana flowers” means the flowers of the plant genus Cannabis within the plant family Cannabaceae.

(19) “Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(20) “Marijuana leaves” means the leaves of the plant genus Cannabis within the plant family Cannabaceae.

(21) “Marijuana processor” means a person that processes marijuana items in this state.

(22) “Marijuana producer” means a person that produces marijuana in this state.

(23) “Marijuana retailer” means a person that sells marijuana items to a consumer in this state.

(24)(a) “Marijuana seeds” means the seeds of the plant Cannabis family Cannabaceae.

(b) “Marijuana seeds” does not include the seeds of industrial hemp, as defined in ORS 571.300.

(25) “Marijuana wholesaler” means a person that purchases marijuana items in this state for resale to a person other than a consumer.

(26) “Mature marijuana plant” means a marijuana plant that is not an immature marijuana plant.

(27) “Medical grade cannabinoid product, cannabinoid concentrate or cannabinoid extract” means a cannabinoid product, cannabinoid concentrate or cannabinoid extract that has a concentration of tetrahydrocannabinol that is permitted under ORS 475B.625 in a single serving of the cannabinoid product, cannabinoid concentrate or cannabinoid extract for consumers who hold a valid registry identification card issued under ORS 475B.797.

(28) “Medical purpose” means a purpose related to using usable marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts to mitigate the symptoms or effects of a debilitating medical condition, as defined in ORS 475B.791.

(29) “Noncommercial” means not dependent or conditioned upon the provision or receipt of financial consideration.

(30)(a) “Premises” includes the following areas of a location licensed under ORS 475B.010 to 475B.545:

(A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;

(B) All areas outside a building that the commission has specifically licensed for the processing, wholesale sale or retail sale of marijuana items; and

(C) For a location that the commission has specifically licensed for the production of marijuana outside a building, that portion of the location used to produce marijuana.

(b) “Premises” does not include a primary residence.

(31)(a) “Processes” means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

(b) “Processes” does not include packaging or labeling.

(32)(a) “Produces” means the manufacture, planting, cultivation, growing or harvesting of marijuana.

(b) “Produces” does not include:

(A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or

(B) The cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler or marijuana retailer if the marijuana processor, marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

(33) “Propagate” means to grow immature marijuana plants or to breed or produce marijuana seeds.

(34) “Public place” means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in connection with public passenger transportation.

(35) “Registry identification cardholder” has the meaning given that term in ORS 475B.791.

(36)(a) “Usable marijuana” means the dried leaves and flowers of marijuana.

(b) “Usable marijuana” does not include:

(A) Marijuana seeds;

(B) The stalks and roots of marijuana; or

(C) Waste material that is a by-product of producing or processing marijuana. [2015 c.1 §5; 2015 c.614 §1; 2016 c.24 §63; 2016 c.83 §11; 2017 c.21 §1; 2017 c.183 §46]

475B.020 Construction of ORS 475B.010 to 475B.545. ORS 475B.010 to 475B.545 may not be construed:

(1) To amend or affect state or federal law pertaining to employment matters;

(2) To amend or affect state or federal law pertaining to landlord-tenant matters;

(3) To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession or use of marijuana to the extent necessary to satisfy federal requirements for the grant;

(4) To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession or use of marijuana to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;

(5) To require a person to violate a federal law;

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law; or

(7) To amend or affect the Oregon Medical Marijuana Act. [2015 c.1 §4; 2015 c.614 §38]

(Powers and Duties of Oregon Liquor Control Commission)

475B.025 General powers and duties; rules. (1) The Oregon Liquor Control Commission has the duties, functions and powers specified in ORS 475B.010 to 475B.545 and the powers necessary or proper to enable the commission to carry out the commission’s duties, functions and powers under ORS 475B.010 to 475B.545. The jurisdiction, supervision, duties, functions and powers of the commission extend to any person that produces, processes, transports, delivers, sells or purchases a marijuana item in this state. The commission may sue and be sued.

(2) The duties, functions and powers of the commission specified in ORS 475B.010 to 475B.545 include the following:

(a) To regulate the production, processing, transportation, delivery, sale and purchase of marijuana items in accordance with the provisions of ORS 475B.010 to 475B.545.

(b) To issue, renew, suspend, revoke or refuse to issue or renew licenses for the production, processing or sale of marijuana items, or other licenses related to the consumption of marijuana items, and to permit, in the commission’s discretion, the transfer of a license between persons.

(c) To adopt, amend or repeal rules as necessary to carry out the intent and provisions of ORS 475B.010 to 475B.545, including rules that the commission considers necessary to protect the public health and safety.

(d) To exercise all powers incidental, convenient or necessary to enable the commission to administer or carry out the provisions of ORS 475B.010 to 475B.545 or any

other law of this state that charges the commission with a duty, function or power related to marijuana. Powers described in this paragraph include, but are not limited to:

- (A) Issuing subpoenas;
- (B) Compelling the attendance of witnesses;
- (C) Administering oaths;
- (D) Certifying official acts;
- (E) Taking depositions as provided by law;
- (F) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and
- (G) Establishing fees in addition to the application, licensing and renewal fees described in ORS 475B.070, 475B.090, 475B.100 and 475B.105, provided that any fee established by the commission is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

(e) To adopt rules regulating and prohibiting advertising marijuana items in a manner:

- (A) That is appealing to minors;
- (B) That promotes excessive use;
- (C) That promotes illegal activity; or
- (D) That otherwise presents a significant risk to public health and safety.

(f) To regulate the use of marijuana items for other purposes as deemed necessary or appropriate by the commission.

(3) Fees collected pursuant to subsection (2)(d)(G) of this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [2015 c.1 §7; 2015 c.614 §2; 2017 c.183 §47]

475B.030 Authority to purchase, possess, seize, transfer to licensee or dispose of marijuana items. Subject to any applicable provision of ORS chapter 183, the Oregon Liquor Control Commission may purchase, possess, seize, transfer to a licensee or dispose of marijuana items as is necessary for the commission to ensure compliance with and enforce the provisions of ORS 475B.010 to 475B.545 and any rule adopted under ORS 475B.010 to 475B.545. [2015 c.614 §3; 2017 c.21 §111]

475B.033 Powers related to decedents and insolvent or bankrupt persons. The Oregon Liquor Control Commission may, by rule or order, provide for the manner and conditions under which:

(1) Marijuana items left by a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed.

(2) The business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(3) A secured party, as defined in ORS 79.0102, may continue to operate at a premises for which a license has been issued under ORS 475B.010 to 475B.545 for a reasonable period after default on the indebtedness by the debtor. [2015 c.1 §25(2); 2015 c.614 §5(2); 2017 c.183 §48]

475B.035 Authority to limit quantity of marijuana items transferred to individual. The Oregon Liquor Control Commission may limit the quantity of marijuana items transferred to a consumer or other individual if the commission determines that the limitation is necessary to prevent the resale of marijuana items. [2015 c.1 §15; 2017 c.183 §49]

(Application Process and Licenses)

475B.040 Application process for all licensees; rules. (1) An applicant for a license or renewal of a license issued under ORS 475B.010 to 475B.545 shall apply to the Oregon Liquor Control Commission in the form required by the commission by rule, showing the name and address of the applicant, location of the premises that is to be operated under the license and other pertinent information required by the commission. The commission may not issue or renew a license until the applicant has complied with the provisions of ORS 475B.010 to 475B.545 and rules adopted under ORS 475B.010 to 475B.545.

(2) The commission may reject any application that is not submitted in the form required by the commission by rule. The commission shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Except as provided in subsection (2) of this section, a revocation of, or a refusal to issue or renew, a license issued under ORS 475B.010 to 475B.545 is subject to the requirements for contested case proceedings under ORS chapter 183. [2015 c.1 §28; 2015 c.614 §7; 2017 c.183 §50]

475B.045 Grounds for refusing to issue license or issuing restricted license. (1) The Oregon Liquor Control Commission may not license an applicant under the provisions of ORS 475B.010 to 475B.545 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.545 if the commission 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 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.545 or any rule adopted under ORS 475B.010 to 475B.545.

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

(h) Has not demonstrated financial responsibility sufficient to adequately meet the requirements of the premises proposed to be licensed.

(i) Is unable to understand the laws of this state relating to marijuana items or the rules adopted under ORS 475B.010 to 475B.545.

(3) Notwithstanding subsection (2)(d) of this section, in determining whether 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. [2015 c.1 §29; 2015 c.614 §8; 2017 c.183 §51; 2017 c.476 §12; 2017 c.613 §24]

475B.050 Authority to require fingerprints of applicants and other individuals.

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Liquor Control Commission may require the fingerprints of any individual listed on an application submitted under ORS 475B.040. The powers conferred on the commission under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each partner of the limited partnership;

(2) If the applicant is a limited liability company, each member of the limited liability company;

(3) If the applicant is a corporation, each director and officer of the corporation;

(4) Any individual who holds a financial interest of 10 percent or more in the person applying for the license; and

(5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the license. [2015 c.614 §10; 2016 c.23 §8]

475B.055 Properties of license. A license issued under ORS 475B.010 to 475B.545:

(1) Is a personal privilege.

(2) Is renewable in the manner provided in ORS 475B.040, except for a cause that would be grounds for refusal to issue the license under ORS 475B.045.

(3) Is revocable or suspendible as provided in ORS 475B.256.

(4) Is transferable from the premises for which the license was originally issued to another premises subject to the provisions of ORS 475B.010 to 475B.545, applicable rules adopted under ORS 475B.010 to 475B.545 and applicable local ordinances.

(5) If the license was issued to an individual, expires upon the death of the licensee, except as provided in ORS 475B.033.

(6) Does not constitute property.

(7) Is not alienable.

(8) Is not subject to attachment or execution.

(9) Does not descend by the laws of testate or intestate devolution. [2015 c.1 §25(1); 2015 c.614 §5(1); 2017 c.183 §52]

475B.060 Duties of Oregon Liquor Control Commission with respect to issuing licenses.

(1) The Oregon Liquor Control Commission shall approve or deny an application to be licensed under ORS 475B.010 to 475B.545. Upon receiving an application under ORS 475B.040, the commission may not unreasonably delay processing, approving or denying the application or, if

the application is approved, issuing the license.

(2) The licenses described in ORS 475B.010 to 475B.545 must be issued by the commission, subject to the provisions of ORS 475B.010 to 475B.545 and rules adopted under ORS 475B.010 to 475B.545.

(3) The commission may not license a premises that does not have defined boundaries. A premises does not need to be enclosed by a wall, fence or other structure, but the commission may require a premises to be enclosed as a condition of issuing or renewing a license. The commission may not license a mobile premises. [2015 c.1 §18; 2015 c.614 §11; 2017 c.183 §53]

475B.063 Duty to request land use compatibility statement. (1) Prior to receiving a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105, an applicant shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The Oregon Liquor Control Commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(2) Except as provided in subsection (3) of this section, a city or county that receives a request for a land use compatibility statement under this section must act on that request within 21 days of:

(a) Receipt of the request, if the land use is allowable as an outright permitted use; or

(b) Final local permit approval, if the land use is allowable as a conditional use.

(3) A city or county that receives a request for a land use compatibility statement under this section is not required to act on that request during the period that the commission discontinues licensing those premises pursuant to ORS 475B.968 (4)(b).

(4) A city or county action concerning a land use compatibility statement under this section is not a land use decision for purposes of ORS chapter 195, 196, 197, 215 or 227. [2015 c.614 §34(4); 2016 c.24 §11]

(Licensees in General)

475B.065 Lawful production, delivery and possession of marijuana items. Licensees and licensee representatives may produce, deliver and possess marijuana items subject to the provisions of ORS 475B.010 to 475B.545 and rules adopted under ORS 475B.010 to 475B.545. The production, deliv-

ery or possession of marijuana items by a licensee or a licensee representative in compliance with ORS 475B.010 to 475B.545 and rules adopted under ORS 475B.010 to 475B.545 does not constitute a criminal or civil offense under the laws of this state. [2015 c.1 §13; 2015 c.614 §43; 2017 c.183 §54]

475B.068 Authority to hold multiple licenses. A person may hold:

(1) Multiple licenses to conduct at different premises the same activity for which a license is required under ORS 475B.010 to 475B.545; and

(2) Multiple types of licenses to conduct at the same or different premises different activities for which a license is required under ORS 475B.010 to 475B.545. [2015 c.1 §24; 2015 c.614 §47; 2017 c.183 §55]

(License to Produce Marijuana)

475B.070 Production license; fees; rules. (1) The production of marijuana is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced. To hold a production license issued under this section, a marijuana producer:

(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; and

(c) 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 producer to annually renew a license issued under this section;

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

(c) Require marijuana produced by marijuana producers to be tested in accordance with ORS 475B.555;

(d) Assist the viability of marijuana producers that are independently owned and operated and that are limited in size and revenue with respect to other marijuana producers, by minimizing barriers to entry into the regulated system and by expanding, to the extent practicable, transportation options that will support their access to the retail market;

(e) Allow a marijuana producer registered under ORS 475B.136 to produce marijuana for medical purposes in the same manner that rules adopted under ORS

475B.010 to 475B.545 allow a marijuana producer to produce marijuana for nonmedical purposes, excepting those circumstances where differentiating between the production of marijuana for medical purposes and the production of marijuana for nonmedical purposes is necessary to protect the public health and safety;

(f) Require marijuana producers to submit, at the time of applying for or renewing a license under ORS 475B.040, a report describing the applicant's or licensee's electrical or water usage; and

(g) Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to the production of marijuana or the propagation of immature marijuana plants and marijuana seeds.

(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.545, the cost of administering ORS 475B.010 to 475B.545;

(b) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more marijuana plants are grown; and

(c) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [2015 c.1 §19; 2015 c.614 §12; 2016 c.24 §1; 2016 c.83 §7; 2017 c.183 §56]

475B.074 Exemption from requirement to obtain land use compatibility statement. The requirement under ORS 475B.063 to obtain a land use compatibility statement as a condition of receiving a license under ORS 475B.070 does not apply to an applicant if:

(1) The applicant is applying for a license at an address where a marijuana grow site registered under ORS 475B.810 is located;

(2) The address is outside of city limits;

(3) At least one person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.810 before January 1, 2015;

(4) Each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.810 before February 1, 2016; and

(5) The applicant is applying for a mature marijuana plant grow canopy of:

(a) 5,000 square feet or less, if the marijuana is produced outdoors; or

(b) 1,250 square feet or less, if the marijuana is produced indoors. [2016 c.23 §2]

475B.075 [2015 c.614 §13; 2016 c.24 §10; 2017 c.183 §57; renumbered 475B.085 in 2017]

475B.080 [2015 c.614 §116; repealed by 2016 c.83 §33]

475B.085 Marijuana plant grow canopies; rules. (1) Subject to subsection (3) of this section, the Oregon Liquor Control Commission shall adopt rules restricting the size of marijuana plant grow canopies at premises for which a license has been issued under ORS 475B.070. In adopting rules under this subsection, the commission shall:

(a) Limit the size of marijuana plant grow canopies, for premises where marijuana is grown outdoors and for premises where marijuana is grown indoors, in a manner calculated to result in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers regardless of whether the marijuana is grown outdoors or indoors.

(b) Adopt a tiered system under which the permitted size of a marijuana producer's marijuana plant grow canopy increases at the time of licensure renewal under ORS 475B.070, except that the permitted size of a marijuana producer's marijuana plant grow canopy may not increase following any year during which the commission disciplined the marijuana producer for violating a provision of ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545.

(c) Take into consideration the market demand for marijuana items in this state, the number of marijuana producers applying for a license under ORS 475B.070, the number of marijuana producers that hold a license issued under ORS 475B.070 and whether the availability of marijuana items in this state is commensurate with the market demand.

(2) For purposes of this section, the commission may adopt different rules for mature marijuana plant grow canopies and immature marijuana plant grow canopies.

(3) This section applies only to that portion of a premises for which a license has been issued under ORS 475B.070 that is used to produce marijuana plants. [Formerly 475B.075]

(License to Process Marijuana Items)

475B.090 Processor license; fees; rules.

(1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

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

(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) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and

(d) 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 processor to annually renew a license issued under this section;

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

(c) Require marijuana processed by a marijuana processor to be tested in accordance with ORS 475B.555;

(d) Allow a marijuana processor registered under ORS 475B.139 to process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana processor to process marijuana and usable marijuana into general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts, excepting those circumstances where differentiating between the processing of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the processing of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

(e) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:

(A) Cannabinoid edibles;

(B) Cannabinoid concentrates;

(C) Cannabinoid extracts; and

(D) Any other type of cannabinoid product identified 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.545, the cost of administering ORS 475B.010 to 475B.545; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [2015 c.1 §20; 2015 c.614 §14; 2016 c.24 §2; 2016 c.83 §8]

475B.096 Cannabinoid concentrate. (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.085, 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.486 that is imposed on the manner in which a marijuana processor licensed under ORS 475B.090 may process marijuana. [2017 c.476 §8]

(License to Sell Marijuana Items at Wholesale)

475B.100 Wholesale license; fees; rules.

(1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, stored or delivered. To hold a wholesale license under this section, a marijuana wholesaler:

(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; and

(d) 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 wholesaler to annually renew a license issued under this section;

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

(c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with ORS 475B.555;

(d) Allow a marijuana wholesaler registered under ORS 475B.144 to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana wholesaler to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale, 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) Require a marijuana wholesaler 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.545, the cost of administering ORS 475B.010 to 475B.545; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [2015 c.1 §21; 2015 c.614 §15; 2016 c.24 §3; 2016 c.83 §9]

(License to Sell Marijuana Items at Retail)

475B.105 Retail license; sale of medical grade items; fees; rules. (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 ORS 475B.109, 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.206, allow a marijuana retailer to deliver marijuana items to another marijuana retailer that is owned by the same or substantially the same persons;

(e) Subject to the limitations and privileges described in ORS 475B.146 (3), allow a marijuana retailer registered under ORS 475B.146 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.545 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

(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.545, the cost of administering ORS 475B.010 to 475B.545; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [Formerly 475B.110]

475B.109 Proximity of marijuana retailer to school. Notwithstanding ORS 475B.105 (2)(d), a marijuana retailer may be located within 1,000 feet of a school if:

(1) The marijuana retailer is not located within 500 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

(2) The Oregon Liquor Control Commission determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the marijuana retailer. [2017 c.613 §20]

475B.110 [2015 c.1 §22; 2015 c.614 §16; 2016 c.24 §4; 2016 c.83 §10; 2017 c.476 §13; 2017 c.613 §25; renumbered 475B.105 in 2017]

475B.115 Establishment of school after issuance of license. If a school described in ORS 475B.105 (2)(d) that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under ORS 475B.105, the marijuana retailer located at that premises may remain at that location unless the Oregon Liquor Control Commission revokes the license of the marijuana retailer under ORS 475B.256. [2015 c.614 §17]

475B.119 Requirement to verify person's age; rules. The Oregon Liquor Control Commission may adopt rules establishing the circumstances under which the commission may require a marijuana retailer that holds a license issued under ORS 475B.105 to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the marijuana retailer does not sell marijuana items to a person under 21 years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age. [Formerly 475B.125]

475B.120 [2015 c.614 §21; 2015 c.736 §119; repealed by 2016 c.24 §76]

(Exclusively Medical Licensee)

475B.122 Exclusively medical licensee designation for marijuana producer. (1) The Oregon Liquor Control Commission shall designate any marijuana producer that holds a license issued under ORS 475B.070 and that is registered under ORS 475B.136 as an exclusively medical licensee if the marijuana producer attests, in a form and manner prescribed by the commission, to:

(a) Producing marijuana only for medical purposes; and

(b) Transferring usable marijuana only to marijuana processors registered under ORS 475B.139, marijuana wholesalers registered under ORS 475B.144, marijuana retailers registered under ORS 475B.146, registry

identification cardholders and designated primary caregivers.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [2017 c.183 §24]

475B.125 [2015 c.614 §26; 2017 c.183 §58; renumbered 475B.119 in 2017]

475B.127 Exclusively medical licensee designation for marijuana processor. (1) The Oregon Liquor Control Commission shall designate any marijuana processor that holds a license issued under ORS 475B.090 and that is registered under ORS 475B.139 as an exclusively medical licensee if the marijuana processor attests, in a form and manner prescribed by the commission, to:

(a) Processing marijuana only for medical purposes;

(b) Receiving usable marijuana only from a marijuana producer registered under ORS 475B.136; and

(c) Transferring cannabinoid products, cannabinoid concentrates and cannabinoid extracts only to marijuana wholesalers registered under ORS 475B.144, marijuana retailers registered under ORS 475B.146, registry identification cardholders and designated primary caregivers.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [2017 c.183 §25]

475B.129 Exclusively medical licensee designation for marijuana wholesaler. (1) The Oregon Liquor Control Commission shall designate any marijuana wholesaler that holds a license issued under ORS 475B.100 and that is registered under ORS 475B.144 as an exclusively medical licensee if the marijuana wholesaler attests, in a form and manner prescribed by the commission, to:

(a) Selling marijuana items only for a medical purposes;

(b) Receiving usable marijuana only from marijuana producers registered under ORS 475B.136 and marijuana processors registered under ORS 475B.139;

(c) Receiving cannabinoid products, cannabinoid concentrates and cannabinoid extracts only from a marijuana processor registered under ORS 475B.139; and

(d) Transferring usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts only to marijuana retailers registered under ORS 475B.146.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [2017 c.183 §26]

475B.130 [2015 c.1 §23; 2015 c.614 §46; 2017 c.183 §59; renumbered 475B.154 in 2017]

475B.131 Exclusively medical licensee designation for marijuana retailer. (1) The Oregon Liquor Control Commission shall designate any marijuana retailer that holds a license issued under ORS 475B.105 and that is registered under ORS 475B.146 as an exclusively medical licensee if the marijuana retailer attests, in a form and manner prescribed by the commission, to:

(a) Selling marijuana items only for medical purposes;

(b) Receiving usable marijuana only from marijuana producers registered under ORS 475B.136, marijuana processors registered under ORS 475B.139 and marijuana wholesalers registered under ORS 475B.144;

(c) Receiving cannabinoid products, cannabinoid concentrates and cannabinoid extracts only from a marijuana processor registered under ORS 475B.139 and marijuana wholesalers registered under ORS 475B.144; and

(d) Transferring usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts only to registry identification cardholders and designated primary caregivers.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [2017 c.183 §27]

475B.135 [2015 c.614 §18; 2017 c.183 §60; 2017 c.476 §9; renumbered 475B.158 in 2017]

(Production, Processing and Sale for Medical Purposes)

475B.136 Production for medical purposes; rules. (1) To produce marijuana for medical purposes, a marijuana producer that holds a license issued under ORS 475B.070 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana producer for the purpose of producing marijuana for medical purposes if the marijuana producer:

(a) Holds a license issued under ORS 475B.070;

(b) Meets any qualifications adopted by the commission by rule;

(c) Applies to the commission in a form and manner prescribed by the commission; and

(d) Pays any fee adopted by the commission by rule.

(3) Subject to subsection (4) of this section, a marijuana producer registered under this section may produce marijuana plants on a medically designated grow canopy in

addition to producing marijuana plants on the grow canopy allowed under rules adopted under ORS 475B.085. The commission shall specify the size of medically designated grow canopies by rule, provided that the size of any medically designated grow canopy does not exceed 10 percent of the total size of both the medically designated grow canopy and the grow canopy allowed under rules adopted under ORS 475B.085 at the time that the marijuana producer applies for registration under this section.

(4) A marijuana producer registered under this section must provide, for no consideration, at least 75 percent of the annual yield of usable marijuana harvested from the marijuana producer's medically designated grow canopy to registry identification cardholders and designated primary caregivers.

(5) A marijuana producer registered under this section may not, during a single transaction, provide a registry identification cardholder or the designated primary caregiver of a registry identification cardholder an amount of usable marijuana that exceeds the amount of usable marijuana that a registry identification cardholder and a designated primary caregiver may jointly possess under ORS 475B.834.

(6)(a) The commission shall adopt rules necessary to administer this section.

(b) The rules must establish sanctions for failure to meet the requirements of this section or a rule adopted under this section, including revocation of permission for the marijuana producer's medically designated grow canopy.

(c) The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545. [2016 c.83 §2; 2017 c.183 §19]

475B.139 Processing for medical purposes; rules. (1) To process marijuana for medical purposes, a marijuana processor that holds a license issued under ORS 475B.090 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana processor for the purpose of processing marijuana for medical purposes if the marijuana processor:

(a) Holds a license issued under ORS 475B.090;

(b) Meets any qualifications adopted by the commission by rule;

(c) Applies to the commission in a form and manner prescribed by the commission; and

(d) Pays any fee adopted by the commission by rule.

(3) A marijuana processor registered under this section may:

(a) Process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts; and

(b) Notwithstanding ORS 475B.206, receive marijuana and usable marijuana from, and for a fee process that marijuana and usable marijuana into cannabinoid products, cannabinoid concentrates and cannabinoid extracts for, a registry identification cardholder or the designated primary caregiver of a registry identification cardholder, provided that the cannabinoid products, cannabinoid concentrates and cannabinoid extracts meet the requirements of ORS 475B.550 to 475B.590 and 475B.625.

(4)(a) The commission shall adopt rules necessary to administer this section.

(b) The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545. [2016 c.83 §3; 2017 c.183 §20]

475B.140 [2015 c.614 §22; 2017 c.183 §61; renumbered 475B.163 in 2017]

475B.144 Wholesale selling for medical purposes; rules. (1) To sell marijuana items at wholesale for medical purposes, a marijuana wholesaler that holds a license issued under ORS 475B.100 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana wholesaler for the purpose of selling marijuana items at wholesale for medical purposes if the marijuana wholesaler:

(a) Holds a license under ORS 475B.100;

(b) Meets any qualifications adopted by the commission by rule;

(c) Applies to the commission in a form and manner prescribed by the commission; and

(d) Pays any fee adopted by the commission by rule.

(3) A marijuana wholesaler registered under this section may sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale.

(4) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other

fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545. [2016 c.83 §4; 2017 c.183 §21]

475B.145 [2015 c.614 §20c; renumbered 475B.173 in 2017]

475B.146 Retail selling for medical purposes; rules. (1) To sell marijuana items at retail for medical purposes, a marijuana retailer that holds a license issued under ORS 475B.105 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana retailer for the purpose of selling marijuana items at retail for medical purposes if the marijuana retailer:

(a) Holds a license issued under ORS 475B.105;

(b) Meets any qualifications adopted by the commission by rule;

(c) Applies to the commission in a form and manner prescribed by the commission; and

(d) Pays any fee adopted by the commission by rule.

(3) A marijuana retailer registered under this section:

(a) May sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers;

(b) May not sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to individuals other than registry identification cardholders and designated primary caregivers;

(c) May sell usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers at a discounted price; and

(d) May provide, for no consideration, usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to a registry identification cardholder and the designated primary caregiver of the registry identification cardholder.

(4)(a) The commission shall adopt rules necessary to administer this section.

(b) The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545. [2016 c.83 §5; 2017 c.183 §22]

475B.149 Oregon Health Authority rule requirement. Notwithstanding the provisions of ORS 475B.785 to 475B.949, rules adopted by the Oregon Health Authority under ORS 475B.785 to 475B.949 must allow for the provision, transfer and sale of usable marijuana as described in ORS 475B.136. [2016 c.83 §6]

475B.150 [2015 c.614 §23; 2015 c.736 §120; 2016 c.24 §64; 2017 c.183 §62; renumbered 475B.177 in 2017]

(Powers and Duties of Oregon Liquor Control Commission With Respect to Licensees)

475B.154 Authority to inspect books and premises; notice. (1) The Oregon Liquor Control Commission may, after 72 hours' notice, make an examination of the books of a licensee for the purpose of determining compliance with ORS 475B.010 to 475B.545 and rules adopted under ORS 475B.010 to 475B.545.

(2) The commission may at any time make an examination of a premises for which a license has been issued under ORS 475B.010 to 475B.545 for the purpose of determining compliance with ORS 475B.010 to 475B.545 and rules adopted under ORS 475B.010 to 475B.545.

(3) The commission may not require the books of a licensee to be maintained on a premises of the licensee.

(4) This section does not authorize the commission to make an examination of a premises of a person registered under ORS 475B.785 to 475B.949. [Formerly 475B.130]

475B.158 Authority to require segregation of premises. 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.545 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.545 for the same premises;

(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 ORS 475B.096 if the licensee is a marijuana producer that holds a license issued under ORS 475B.070 and that processes marijuana as described in ORS 475B.096. [Formerly 475B.135]

475B.160 [2015 c.1 §27; 2015 c.614 §6; 2016 c.23 §23; 2016 c.24 §65; 2016 c.83 §12; 2017 c.183 §63; renumbered 475B.206 in 2017]

475B.163 Authority to require general liability insurance. As is necessary to protect the public health and safety, the Oregon Liquor Control Commission may require a licensee to maintain general liability insurance in an amount that the commission determines is reasonably affordable and available for the purpose of protecting the licensee against damages resulting from a cause of action related to activities undertaken pursuant to the license held by the licensee. [Formerly 475B.140]

475B.165 [2015 c.1 §14; 2015 c.614 §44; renumbered 475B.211 in 2017]

475B.167 Duty to develop procedures to transfer from registration to license; rules. (1) The Oregon Liquor Control Commission shall adopt by rule procedures by which:

(a) A person responsible for a marijuana grow site registered under ORS 475B.810, or, if multiple persons responsible for a marijuana grow site registered under ORS 475B.810 are located at the same address, each person responsible for a marijuana grow site located at the address, may apply for a license under ORS 475B.070 to transition from being registered by the Oregon Health Authority to being licensed by the commission;

(b) A marijuana processing site registered under ORS 475B.840 may apply for a license under ORS 475B.090 to transition from being registered by the authority to being licensed by the commission; and

(c) A medical marijuana dispensary registered under ORS 475B.858 may apply for a license under ORS 475B.105 to transition from being registered by the authority to being licensed by the commission.

(2)(a) In adopting rules under this section, the commission shall adopt, at a minimum, procedures by which the inventory possessed by a person responsible for a marijuana grow site, a marijuana processing site or a medical marijuana dispensary on the date on which the person responsible for a marijuana grow site, the marijuana processing site or the medical marijuana dispensary is first subject to tracking by the commission under ORS 475B.177:

(A) May be delivered to a premises for which a license has been issued under ORS 475B.090, 475B.100 or 475B.105; or

(B) May be sold to consumers by marijuana retailers that hold a license under ORS 475B.105.

(b) Procedures adopted under this subsection must require a person responsible for

a marijuana grow site registered under ORS 475B.810, or, if multiple persons responsible for a marijuana grow site registered under ORS 475B.810 are located at the same address, each person responsible for a marijuana grow site located at the address, to return to an individual to whom a registry identification card has been issued under ORS 475B.797, and for whom the person or persons are producing marijuana, all the marijuana and usable marijuana owned by the individual, except as otherwise allowed under a personal agreement entered into under ORS 475B.822, at the time that the person or the persons receive a license under ORS 475B.070. [2016 c.24 §25]

475B.170 [2015 c.1 §16; 2015 c.614 §24; 2017 c.183 §64; renumbered 475B.216 in 2017]

475B.173 Authority to establish merit-based criteria for licensure or renewal of licensure. In adopting rules related to industry best practices under ORS 475B.070, 475B.090, 475B.100 and 475B.105, the Oregon Liquor Control Commission may establish merit-based criteria for licensure or renewal of licensure, including, but not limited to, possession of a developed business plan, access to sufficient capital, offering living wages and benefits to employees, provision of training and apprenticeship, provision of community benefits, implementation of best environmental practices and implementation of consumer safety practices. [Formerly 475B.145]

475B.177 Duty to develop and maintain system for tracking transfer of marijuana items. (1) The Oregon Liquor Control Commission shall develop and maintain a system for tracking the transfer of marijuana items between premises for which licenses have been issued under ORS 475B.010 to 475B.545.

(2) The purposes of the system developed and maintained under this section include, but are not limited to:

(a) Preventing the diversion of marijuana items to criminal enterprises, gangs, cartels and other states;

(b) Preventing persons from substituting or tampering with marijuana items;

(c) Ensuring an accurate accounting of the production, processing and sale of marijuana items;

(d) Ensuring that laboratory testing results are accurately reported; and

(e) Ensuring compliance with ORS 475B.010 to 475B.545, rules adopted under ORS 475B.010 to 475B.545 and any other law of this state that charges the commission

with a duty, function or power related to marijuana.

(3) The system developed and maintained under this section must be capable of tracking, at a minimum:

(a) The propagation of immature marijuana plants and the production of marijuana by a marijuana producer;

(b) The processing of marijuana by a marijuana processor;

(c) The receiving, storing and delivering of marijuana items by a marijuana wholesaler;

(d) The sale of marijuana items by a marijuana retailer to a consumer;

(e) The sale and purchase of marijuana items between licensees, as permitted by ORS 475B.010 to 475B.545;

(f) The transfer of marijuana items between premises for which licenses have been issued under ORS 475B.010 to 475B.545; and

(g) Any other information that the commission determines is reasonably necessary to accomplish the duties, functions and powers of the commission under ORS 475B.010 to 475B.545. [Formerly 475B.150]

475B.180 [2015 c.1 §52; 2017 c.183 §65; renumbered 475B.224 in 2017]

475B.182 Authority to prevent diversion of marijuana. Except as otherwise provided by law, the Oregon Liquor Control Commission has any power, and may perform any function, necessary for the commission to prevent the diversion of marijuana from licensees to a source that is not operating legally under the laws of this state. [2017 c.183 §4]

475B.185 [2015 c.1 §45; 2015 c.614 §48; 2016 c.24 §39; 2017 c.21 §15; renumbered 475B.227 in 2017]

475B.186 Authority to discipline for unregulated commerce. (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.545, the commission may immediately restrict, suspend or refuse to renew a license issued under ORS 475B.010 to 475B.545 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. [2017 c.476 §2]

475B.190 [2015 c.1 §51; 2015 c.614 §53; 2017 c.183 §67; renumbered 475B.232 in 2017]

475B.191 Authority to require financial disclosure from licensee. (1) The Oregon Liquor Control Commission may require a licensee or applicant for a license under ORS 475B.010 to 475B.545 to submit, in a form and manner prescribed by the commission, to the commission a sworn statement showing:

(a) The name and address of each person that has a financial interest in the business operating or to be operated under the license; and

(b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.

(2) The commission may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under ORS 475B.010 to 475B.545 if the commission determines that a person that has a financial interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the commission to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license. [2017 c.183 §8]

475B.194 Authority to investigate, discipline licensees. (1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS 475B.010 to 475B.545, the Oregon Liquor Control Commission may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or

(b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under ORS 475B.010 to 475B.545, the applicant for licensure may not withdraw the applicant's application. [2017 c.183 §12]

475B.195 [2015 c.1 §50; 2015 c.614 §52; renumbered 475B.236 in 2017]

475B.199 Authority to investigate, discipline permit holder. (1) Notwithstanding the lapse, suspension or revocation of a permit issued under ORS 475B.266, the Oregon Liquor Control Commission may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the permit; or

(b) Revise or render void an order suspending or revoking the permit.

(2) In cases involving the proposed denial of a license issued under ORS 475B.010 to 475B.545, the applicant for licensure may not withdraw the applicant's application. [2017 c.183 §13]

475B.200 [2015 c.1 §53; 2015 c.614 §54; 2017 c.183 §68; renumbered 475B.241 in 2017]

475B.201 Authority to delegate certain duties, functions and powers. Except for the power to adopt rules, the Oregon Liquor Control Commission may delegate to the administrator appointed under ORS 471.720 any of the commission's functions, duties and powers as prescribed by ORS 475B.010 to 475B.545, 475B.550 to 475B.590, 475B.600 to 475B.655, 475B.785 to 475B.949 and 475B.968 or any other law of the state related to the regulation of marijuana items. [2016 c.24 §15]

475B.205 [2015 c.1 §48; 2015 c.614 §51; 2017 c.183 §69; renumbered 475B.246 in 2017]

(Conduct of Licensees)

475B.206 Restrictions on delivery or receipt; waiver by commission. (1) Except as provided in ORS 475B.136 and 475B.873, a marijuana producer that holds a license issued under ORS 475B.070, marijuana processor that holds a license issued under ORS 475B.090 or marijuana wholesaler that holds a license issued under ORS 475B.100 may deliver marijuana items only to or on a premises for which a license has been issued under ORS 475B.070, 475B.090, 475B.100 or 475B.105, or to a registry identification cardholder or designated primary caregiver as allowed under ORS 475B.010 to 475B.545.

(2) A licensee to which marijuana items may be delivered under subsection (1) of this section may receive marijuana items only from:

(a) A marijuana producer that holds a license issued under ORS 475B.070, marijuana processor that holds a license issued under ORS 475B.090, marijuana wholesaler that holds a license issued under ORS 475B.100 or marijuana retailer that holds a license issued under ORS 475B.105;

(b) A researcher of cannabis that holds a certificate issued under ORS 475B.286 and that transfers limited amounts of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts in accordance with procedures adopted under ORS 475B.286 (3)(d) and (e); or

(c) A marijuana grow site registered under ORS 475B.810, marijuana processing site registered under ORS 475B.840, or a medical marijuana dispensary registered under ORS 475B.858, acting in accordance with procedures adopted by the Oregon Liquor Control Commission under ORS 475B.167.

(3) The sale of marijuana items by a marijuana retailer that holds a license issued under ORS 475B.105 must be restricted to the premises for which the license has been issued, but deliveries may be made by a

marijuana retailer to consumers pursuant to a bona fide order received at the premises prior to delivery.

(4) The commission may by order waive the requirements of subsections (1) and (2) of this section to ensure compliance with ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545. An order issued under this subsection does not constitute a waiver of any other requirement of ORS 475B.010 to 475B.545 or any other rule adopted under ORS 475B.010 to 475B.545. [Formerly 475B.160]

475B.210 [2015 c.1 §30; 2015 c.614 §9; 2017 c.17 §43; 2017 c.183 §70; 2017 c.476 §14; 2017 c.613 §26; renumbered 475B.256 in 2017]

475B.211 Prohibition against selling or delivering marijuana items to persons under 21 years of age. A licensee or licensee representative may not sell or deliver a marijuana item to a person under 21 years of age. [Formerly 475B.165]

475B.215 [2015 c.614 §19; 2016 c.23 §16; 2017 c.183 §71; renumbered 475B.261 in 2017]

475B.216 Identification requirement; rules. (1) Subject to subsection (2) of this section, a licensee or licensee representative, before selling or providing a marijuana item to another person, must require the person to produce one of the following pieces of identification:

- (a) The person's passport.
- (b) The person's driver license, issued by the State of Oregon or another state of the United States.
- (c) An identification card issued under ORS 807.400.
- (d) A United States military identification card.
- (e) An identification card issued by a federally recognized Indian tribe.
- (f) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(2) The Oregon Liquor Control Commission may adopt rules exempting a licensee or licensee representative from this section. [Formerly 475B.170]

475B.218 [2015 c.614 §20; 2016 c.24 §13; 2017 c.21 §112; 2017 c.183 §72; renumbered 475B.266 in 2017]

475B.220 Identification for purchasing; restrictions on use of information. (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.216, whether the information is contained in a piece of

identification described in ORS 475B.216 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.216; and

(b) If the consumer is a registry identification cardholder, as defined in ORS 475B.791, a registry identification card, as defined in ORS 475B.791.

(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.206 (3), as required by any rules adopted under ORS 475B.206 (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 ORS 475B.707. [2017 c.18 §2; 2017 c.476 §16]

475B.224 Prohibition against employing persons under 21 years of age. (1) A licensee may not employ a person under 21 years of age at a premises for which a license has been issued under ORS 475B.010 to 475B.545.

(2) During an inspection of a premises for which a license has been issued under ORS 475B.010 to 475B.545, the Oregon Liquor Control Commission may require proof that a person performing work at the premises is 21 years of age or older. If the person does not provide the commission with acceptable proof of age upon request, the commission may require the person to immediately cease any activity and leave the premises until the commission receives acceptable proof of age. This subsection does not apply to a person temporarily at the premises to make a service, maintenance or repair call or for other

purposes independent of the premises operations.

(3) If a person performing work has not provided proof of age requested by the commission under subsection (2) of this section, the commission may request that the licensee provide proof that the person is 21 years of age or older. Failure of the licensee to respond to a request made under this subsection by providing acceptable proof of age for a person is prima facie evidence that the licensee has allowed the person to perform work at the premises for which a license has been issued under ORS 475B.010 to 475B.545 in violation of the minimum age requirement. [Formerly 475B.180]

475B.227 Prohibition against importing or exporting marijuana items. (1) For purposes of this section, “export” includes placing a marijuana item in any mode of transportation for hire, such as luggage, mail or parcel delivery, even if the transportation of the marijuana item is intercepted prior to the marijuana item leaving this state.

(2) A person may not import marijuana items into this state or export marijuana items from this state.

(3) Except as provided in subsection (4) of this section, a violation of this section is a Class B violation.

(4) A violation of this section is a:

(a) Class A misdemeanor, if the importation or exportation:

(A) Is not for consideration and the person holds a license issued under ORS 475B.070, 475B.090, 475B.100 or 475B.105; or

(B) Concerns an amount of marijuana items that exceeds the applicable maximum amount specified in ORS 475B.337 (1)(a) to (f).

(b) Class C felony, if the importation or exportation:

(A) Is for consideration and the person holds a license issued under ORS 475B.070, 475B.090, 475B.100 or 475B.105;

(B) Concerns an amount of marijuana items that exceeds 16 times the applicable maximum amount specified in ORS 475B.337 (1)(a) to (f); or

(C) Concerns a cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475B.105. [Formerly 475B.185]

475B.230 [2015 c.614 §20a; 2017 c.183 §73; renumbered 475B.276 in 2017]

475B.232 Prohibition against obfuscating mark or label or using mark or label to deceive. (1) A licensee may not use or allow the use of a mark or label on the container of a marijuana item that is

kept for sale if the mark or label does not precisely and clearly indicate the nature of the container’s contents or if the mark or label in any way might deceive a customer about the nature, composition, quantity, age or quality of the container’s contents.

(2) The Oregon Liquor Control Commission may prohibit a licensee from selling any brand of marijuana item that in the commission’s judgment is deceptively branded or labeled or contains injurious or adulterated ingredients. [Formerly 475B.190]

475B.233 [2015 c.614 §20b; 2017 c.183 §74; renumbered 475B.281 in 2017]

475B.235 [2015 c.614 §113; 2016 c.23 §24; 2016 c.24 §12; 2017 c.183 §75; renumbered 475B.286 in 2017]

475B.236 Requirement that marijuana items comply with minimum standards.

(1) A marijuana item may not be sold or offered for sale within this state unless the marijuana item complies with the minimum standards prescribed by the statutory laws of this state.

(2) The Oregon Liquor Control Commission may prohibit the sale of a marijuana item by a marijuana retailer for a reasonable period of time for the purpose of determining whether the marijuana item complies with the minimum standards prescribed by the statutory laws of this state. [Formerly 475B.195]

475B.240 [2015 c.614 §32; 2017 c.183 §43; renumbered 475B.296 in 2017]

475B.241 Prohibition against certain licensees possessing mature marijuana plants.

(1) Except for a marijuana producer that holds a license issued under ORS 475B.070 or licensee representative of a marijuana producer that holds a license issued under ORS 475B.070, a licensee or licensee representative may not possess a mature marijuana plant.

(2) A licensee or licensee representative may not sell a mature marijuana plant. [Formerly 475B.200]

475B.245 [2015 c.1 §6(1); 2015 c.614 §39(1); 2016 c.23 §27; 2016 c.24 §36; 2016 c.83 §13; renumbered 475B.301 in 2017]

475B.246 Other prohibitions. (1) A person may not make false representations or statements to the Oregon Liquor Control Commission in order to induce or prevent action by the commission.

(2) A licensee may not maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious marijuana items.

(3) A licensee may not misrepresent to a customer or to the public any marijuana items. [Formerly 475B.205]

475B.250 [2015 c.1 §56; 2015 c.614 §55; 2016 c.24 §37; renumbered 475B.306 in 2017]

475B.251 Purpose of license issued under ORS 475B.010 to 475B.545. A license issued under ORS 475B.010 to 475B.545:

(1) Is issued for both adult use purposes and medical use purposes; and

(2) Serves the purpose of exempting the person that holds the license from the criminal laws of this state for possession, delivery or manufacture of marijuana items, provided that the person complies with all state laws and rules applicable to licensees. [2017 c.183 §3]

475B.255 [2015 c.1 §57; 2015 c.614 §56; 2016 c.24 §38; 2017 c.21 §113; 2017 c.183 §76; renumbered 475B.311 in 2017]

(Disciplining Licensees)

475B.256 Grounds for revocation, suspension or restriction of license. The Oregon Liquor Control Commission may revoke, suspend or restrict a license issued under ORS 475B.010 to 475B.545 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.545 or a rule adopted under ORS 475B.010 to 475B.545.

(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 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 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 revoking, suspending or restricting the license. [Formerly 475B.210]

475B.260 [2015 c.1 §49; 2015 c.614 §25; 2017 c.20 §2; 2017 c.183 §77; renumbered 475B.316 in 2017]

(Employees and Other Workers)

475B.261 Permit required to perform work for or on behalf of marijuana retailer. (1) An individual who performs work for or on behalf of a licensee must have a valid permit issued by the Oregon Liquor Control Commission under ORS 475B.266 if the individual participates in:

(a) The possession, production, propagation, processing, securing or selling of marijuana items at the premises for which the license has been issued;

(b) The recording of the possession, production, propagation, processing, securing or selling of marijuana items at the premises for which the license has been issued; or

(c) The verification of any document described in ORS 475B.216.

(2) A licensee must verify that an individual has a valid permit issued under ORS 475B.266 before allowing the individual to perform any work described in subsection (1) of this section at the premises for which the license has been issued. [Formerly 475B.215]

475B.265 [2015 c.1 §17; 2015 c.614 §45; 2017 c.21 §114; renumbered 475B.321 in 2017]

475B.266 Issuing, renewing permits; fees; rules. (1) The Oregon Liquor Control Commission shall issue permits to qualified applicants to perform work described in ORS 475B.261. The commission shall adopt rules establishing:

(a) The qualifications for performing work described in ORS 475B.261;

(b) The term of a permit issued under this section;

(c) Procedures for applying for and renewing a permit issued under this section; and

(d) Reasonable application, issuance and renewal fees for a permit issued under this section.

(2)(a) The commission may require an individual applying for a permit under this section to successfully complete a course, made available by or through the commission, through which the individual receives training on:

(A) Checking identification;

(B) Detecting intoxication;

(C) Handling marijuana items;

(D) If applicable, producing and propagating marijuana;

(E) If applicable, processing marijuana;

(F) The content of ORS 475B.010 to 475B.545 and rules adopted under ORS 475B.010 to 475B.545; or

(G) Any matter deemed necessary by the commission to protect the public health and safety.

(b) The commission or other provider of a course may charge a reasonable fee for the course.

(c) The commission may not require an individual to successfully complete a course more than once, except that:

(A) As part of a final order suspending a permit issued under this section, the commission may require a permit holder to successfully complete the course as a condition of lifting the suspension; and

(B) As part of a final order revoking a permit issued under this section, the commission shall require an individual to successfully complete the course prior to applying for a new permit.

(3) The commission shall conduct a criminal records check under ORS 181A.195 on an individual applying for a permit under this section.

(4) Subject to the applicable provisions of ORS chapter 183, the commission may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit:

(a) Is convicted of a felony or is convicted of an offense under ORS 475B.010 to 475B.545, except that the commission may not consider a conviction for an offense under ORS 475B.010 to 475B.545 if the date of the conviction is two or more years before the date of the application or renewal;

(b) Violates any provision of ORS 475B.010 to 475B.545 or any rule adopted under ORS 475B.010 to 475B.545; or

(c) Makes a false statement to the commission.

(5) A permit issued under this section is a personal privilege and permits work described under ORS 475B.261 only for the individual who holds the permit. [Formerly 475B.218]

475B.270 [2015 c.1 §47; 2015 c.614 §50; 2017 c.21 §115; renumbered 475B.329 in 2017]

475B.271 Authority to require fingerprints of individuals listed on application.

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Liquor Control Commission may require the fingerprints of any individual listed on an application submitted under ORS 475B.266. [2016 c.23 §9]

475B.275 [2015 c.1 §46; 2015 c.614 §49; 2017 c.21 §116; renumbered 475B.333 in 2017]

475B.276 Right of employees to organize. (1) An employee of a licensee has the right to form, join and participate in the activities of a labor organization of the

employee's own choosing for the purpose of securing representation and collective bargaining for matters concerning employment relations with the licensee.

(2) For purposes of this section, the provisions of ORS chapters 661 to 663 apply to relations between employees of licensees and employers that are licensees in the same manner that those provisions apply to other employment relations. [Formerly 475B.230]

475B.280 [2015 c.1 §54; renumbered 475B.381 in 2017]

475B.281 Whistleblower protection for employees. (1) It is an unlawful employment practice for a licensee to discharge, demote, suspend or in any manner discriminate or retaliate against an employee of the licensee with regard to promotion, compensation or other terms, conditions or privileges of employment on the basis that the employee has in good faith reported information to the Oregon Liquor Control Commission that the employee believes is evidence of a violation of ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545.

(2) This section is subject to enforcement under ORS chapter 659A. [Formerly 475B.233]

475B.285 [2015 c.614 §30; 2016 c.83 §34; repealed by 2016 c.24 §76]

(Cannabis Research)

475B.286 Certification of cannabis researchers; rules. (1) The Oregon Liquor Control Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, shall establish a program for the purpose of identifying and certifying private and public researchers of cannabis.

(2)(a) The authority shall assist the commission in identifying candidates for certification under this section with respect to potential medical research.

(b) The department shall assist the commission in identifying candidates for certification under this section with respect to potential agricultural research.

(3) Subject to subsection (4) of this section, the commission shall adopt by rule or order:

(a) Qualifications for certification under this section;

(b) The term of a certificate issued under this section;

(c) Processes for applying for, receiving and renewing a certificate under this section;

(d) Procedures for tracking marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts received by and disposed or otherwise made use of by a person that holds a certificate issued under this section; and

(e) Procedures for disposing or otherwise making use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(4) In establishing qualifications under subsection (3) of this section, the commission shall consider the following:

(a) A research applicant's access to funding and the overall cost of the proposed research;

(b) The overall benefit of an applicant's proposed research to this state's cannabis industry or to public health and safety; and

(c) Legal barriers to conducting the proposed research or legal risks associated with conducting the proposed research.

(5) In adopting procedures under subsection (3)(d) and (e) of this section with respect to making use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts, the commission shall also adopt procedures by which a person that holds a certificate issued under this section may transfer limited amounts of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts to another person that holds a certificate issued under this section or to a premises for which a license has been issued under ORS 475B.070, 475B.090, 475B.100 or 475B.105.

(6) In adopting procedures under subsection (3)(d) and (e) of this section with respect to making use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts, the commission shall also adopt procedures by which a person that holds a certificate issued under this section may give, devise or bequest usable marijuana, immature marijuana plants, marijuana seeds, cannabinoid products, cannabinoid concentrates and cannabinoid extracts to a medical marijuana dispensary registered with the authority under ORS 475B.858 and owned by a nonprofit corporation organized under ORS chapter 65 for purposes described in ORS 475B.873.

(7) A person that holds a certificate issued under this section:

(a) May receive marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts from a licensee or a registrant under ORS 475B.785 to 475B.949; and

(b) May not sell or otherwise transfer marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts to any other person,

except as provided in this section and rules adopted by the commission under this section.

(8) Except as otherwise provided by the commission by rule, rules adopted under ORS 475B.010 to 475B.545 with respect to licensees and licensee representatives apply to persons that hold a certificate issued under this section and persons employed by or who otherwise perform work for persons that hold a certificate issued under this section.

(9) A person that holds a certificate issued under this section, and an employee of or other person who performs work for a person that holds a certificate issued under this section, is exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery and manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, while performing activities related to conducting research as described in this section. [Formerly 475B.235]

Note: Section 25, chapter 23, Oregon Laws 2016, provides:

Sec. 25. The Oregon Health Authority shall solicit proposals through a competitive process for the purpose of choosing one or more entities to conduct research for the purpose of developing public health and safety standards for consumers of marijuana and marijuana-derived products. [2016 c.23 §25]

475B.290 [2015 c.614 §31; 2017 c.183 §78; renumbered 475B.409 in 2017]

475B.291 Authority to require fingerprints of applicants and other individuals.

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Liquor Control Commission may require the fingerprints of any individual listed on an application submitted under ORS 475B.286. The powers conferred on the commission under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each partner of the limited partnership;

(2) If the applicant is a limited liability company, each member of the limited liability company;

(3) If the applicant is a corporation, each director and officer of the corporation;

(4) Any individual who holds a financial interest of 10 percent or more in the person applying for the certificate; and

(5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the certificate. [2016 c.23 §10]

475B.295 [2015 c.614 §29; 2017 c.183 §79; renumbered 475B.416 in 2017]

(Marijuana Control and Regulation Fund)

475B.296 Marijuana Control and Regulation Fund. The Marijuana Control and Regulation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Marijuana Control and Regulation Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Liquor Control Commission to administer and enforce ORS 475B.010 to 475B.545, 475B.550 to 475B.590, 475B.600 to 475B.655 and 475B.895. [Formerly 475B.240]

475B.298 [2015 c.1 §67; 2015 c.614 §64; 2017 c.183 §80; renumbered 475B.424 in 2017]

475B.299 Enforcement authority of regulatory specialist. (1) In addition to the duties, functions and powers described in ORS 471.775, and subject to subsection (2) of this section, a regulatory specialist, as defined in ORS 471.001, has the authority as provided in ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.235, 161.245, 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655, and chapter 743, Oregon Laws 1971, to conduct inspections and investigations, make seizures, aid in prosecutions of and issue citations to licensees and persons who hold a certificate or permit under ORS 475B.010 to 475B.545 for violations of and offenses related to, and otherwise enforce, ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655, any rule adopted under ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655 and any other law of this state that charges the Oregon Liquor Control Commission with a duty, function or power related to a marijuana item, including enforcing any law or rule related to individuals who use false identification for purposes of purchasing or possessing a marijuana item or who engage in illegal activity on or near a premises.

(2) A regulatory specialist may not:

(a) Be sworn in as a federal law enforcement official and act in that capacity while performing an activity authorized by this section.

(b) Carry a firearm.

(c) Conduct inspections and investigations of a primary residence.

(d) For purposes of ensuring compliance with ORS 475B.785 to 475B.949, conduct inspections and investigations of registry identification cardholders or designated primary caregivers, the residences of registry identification cardholders or designated primary caregivers, or the locations where registry identification cardholders or designated primary caregivers produce marijuana. [2017 c.183 §6]

475B.300 [2015 c.1 §63; 2015 c.614 §60; 2017 c.183 §81; renumbered 475B.429 in 2017]

(Homegrown Marijuana and Homemade Cannabinoid Products or Concentrates)**475B.301 Applicability of provisions to homegrown marijuana and homemade cannabinoid products and concentrates.**

ORS 475B.025, 475B.030, 475B.033, 475B.035, 475B.040, 475B.045, 475B.050, 475B.055, 475B.060, 475B.063, 475B.065, 475B.068, 475B.070, 475B.085, 475B.090, 475B.100, 475B.105, 475B.115, 475B.119, 475B.136, 475B.139, 475B.144, 475B.146, 475B.154, 475B.158, 475B.163, 475B.173, 475B.177, 475B.206, 475B.211, 475B.216, 475B.224, 475B.232, 475B.236, 475B.241, 475B.246, 475B.256, 475B.261, 475B.266, 475B.276, 475B.281, 475B.286, 475B.296, 475B.461, 475B.474, 475B.479, 475B.486, 475B.491, 475B.501, 475B.506, 475B.514, 475B.518, 475B.521, 475B.523, 475B.526 and 475B.529 do not apply:

(1) To the production or storage of homegrown marijuana at a household by one or more persons 21 years of age and older, if the total amount of homegrown marijuana at the household does not exceed four marijuana plants at any time.

(2) To the possession or storage of usable marijuana items at a household by one or more persons 21 years of age or older, if the total amount of usable marijuana at the household does not exceed eight ounces of usable marijuana at any time.

(3) To the making, processing, possession or storage of cannabinoid products at a household by one or more persons 21 years of age and older, if the total amount of cannabinoid products at the household does not exceed 16 ounces in solid form at any time.

(4) To the making, processing, possession or storage of cannabinoid products at a household by one or more persons 21 years of age and older, if the total amount of cannabinoid products at the household does not exceed 72 ounces in liquid form at any time.

(5) To the making, processing, possession or storage of cannabinoid concentrates at a household by one or more persons 21 years of age or older, if the total amount of cannabinoid concentrates at the household does not exceed 16 ounces at any time.

(6) To the possession of cannabinoid extracts at a household by one or more persons 21 years of age or older, if the cannabinoid extracts were purchased from a marijuana retailer that holds a license under ORS 475B.105, or transferred by a medical

marijuana dispensary registered by the Oregon Health Authority under ORS 475B.858, and the total amount of cannabinoid extracts at the household does not exceed one ounce at any time.

(7) To the delivery of not more than one ounce of usable marijuana at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(8) To the delivery of not more than 16 ounces of cannabinoid products in solid form at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(9) To the delivery of not more than 72 ounces of cannabinoid products in liquid form at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(10) To the delivery of not more than 16 ounces of cannabinoid concentrates at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes. [Formerly 475B.245]

475B.305 [2015 c.1 §64; 2015 c.614 §61; 2017 c.183 §82; renumbered 475B.436 in 2017]

475B.306 Prohibition against producing, processing, possessing or storing homegrown marijuana or homemade cannabinoid products, extracts. (1) A person may not produce, process, possess or store homegrown marijuana, cannabinoid products or cannabinoid concentrates if the homegrown marijuana, cannabinoid products or cannabinoid concentrates can be seen by normal unaided vision from a public place.

(2) A person may not possess or store a cannabinoid extract if the cannabinoid extract can be seen by normal unaided vision from a public place.

(3) A violation of subsection (1) or (2) of this section is a Class B violation. [Formerly 475B.250]

475B.310 [2015 c.1 §65; 2015 c.614 §62; 2017 c.183 §83; renumbered 475B.442 in 2017]

475B.311 Prohibition against producing, processing or storing homemade cannabinoid extracts. (1) A person other than a marijuana processor that holds a license issued under ORS 475B.090 may not process cannabinoid extracts into a cannabinoid product.

(2) Violation of this section is a Class A misdemeanor. [Formerly 475B.255]

475B.315 [2015 c.1 §69; 2015 c.614 §66; 2015 c.699 §25; 2017 c.21 §117; 2017 c.183 §66; renumbered 475B.448 in 2017]

(Prohibited Conduct)

475B.316 Prohibition against person under 21 years of age possessing, attempting to purchase or purchasing marijuana item; penalty. (1)(a) A person under 21 years of age may not possess, attempt to purchase or purchase a marijuana item.

(b) For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and 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 premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

(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) The court may require a person who violates subsection (1) of this section through misrepresentation of age to perform community service; and

(b) The court 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 pursuant to ORS 809.260 and 809.280. The court notification made to the Department of Transportation under this 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. 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 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 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. [Formerly 475B.260]

475B.320 [2015 c.1 §58; 2015 c.614 §57; renumbered 475B.454 in 2017]

475B.321 Prohibition against producing identification that falsely indicates age; protections for reliance on identification. (1) A person may not produce any piece of identification that falsely indicates the person's age.

(2) Violation of this section is a Class A misdemeanor.

(3) If a piece of identification is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of a marijuana item to a person under 21 years of age, the licensee or licensee representative is not guilty of any offense prohibiting a person from selling or serving a marijuana item to

a person under 21 years of age unless it is demonstrated that a reasonable person would have determined that the identification exhibited by the person under 21 years of age was altered, or that the identification exhibited by the person under 21 years of age did not accurately describe the person to whom the marijuana item was sold or served. [Formerly 475B.265]

475B.325 [2015 c.1 §60; 2015 c.614 §58; 2017 c.183 §84; renumbered 475B.461 in 2017]

475B.326 Requirements for assessment and treatment under ORS 475B.316. When a person is ordered to undergo assessment and treatment as provided in ORS 475B.316, 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.316.

(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. [2017 c.20 §4]

475B.329 Prohibition regarding person who is visibly intoxicated; prohibition against allowing consumption of marijuana by person under 21 years of age on private property; penalty. (1) A person may not sell, give or otherwise make available a marijuana item to a person who is visibly intoxicated.

(2)(a) A person who exercises control over private real property may not knowingly allow a person under 21 years of age to consume a marijuana item on the property, or allow another person under 21 years of age to remain on the property if the person under 21 years of age consumes a marijuana item on the property.

(b) This subsection:

(A) Applies only to a person who is present and in control of the location at the time the consumption occurs; and

(B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual housing unit in which the owner or agent resides.

(3) Violation of this section is a Class A misdemeanor. [Formerly 475B.270]

475B.330 [2015 c.1 §62; renumbered 475B.474 in 2017]

475B.333 Prohibition against giving marijuana item as prize; penalty. (1) A marijuana item may not be given as a prize, premium or consideration for a lottery, contest, game of chance, game of skill or competition of any kind.

(2) Violation of this section is a Class A misdemeanor. [Formerly 475B.275]

475B.335 [2015 c.1 §61; 2015 c.614 §59; renumbered 475B.479 in 2017]

475B.337 Unlawful possession by person 21 years of age or older. (1) Except for licensees and licensee representatives acting in accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS 475B.010 to 475B.545, it is unlawful for any person 21 years of age or older to possess, knowingly or intentionally:

(a) An amount of marijuana plants in excess of the amount allowed under ORS 475B.301 (1).

(b) More than one ounce of usable marijuana in a public place.

(c) More than eight ounces of usable marijuana.

(d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.

(e) More than 72 ounces of cannabinoid products in liquid form.

(f) More than one ounce of cannabinoid extracts.

(g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475B.105.

(2) Except as provided in subsection (3) of this section, unlawful possession of a marijuana item is a Class A misdemeanor.

(3) Unlawful possession of a marijuana item is:

(a) A Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection (1)(a) to (f) of this section.

(b) A Class B misdemeanor, if the amount possessed is more than two times, but not more than four times, the applicable maxi-

imum amount specified in subsection (1)(a) to (f) of this section.

(c) A Class C felony, if the amount possessed is:

(A) More than 16 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this subsection;

(B) More than eight pounds of usable marijuana in a public place; or

(C) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475B.105. [2017 c.21 §3]

475B.340 [2015 c.1 §59; 2015 c.614 §33; 2016 c.23 §4; 2016 c.24 §66; 2017 c.183 §85; renumbered 475B.486 in 2017]

475B.341 Unlawful possession by person under 21 years of age. (1) Except for licensees and licensee representatives acting in accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS 475B.010 to 475B.545, it is unlawful for any person under 21 years of age to possess, knowingly or intentionally:

(a) An amount of marijuana plants in excess of the amount allowed under ORS 475B.301 (1).

(b) More than one ounce of usable marijuana in a public place.

(c) More than eight ounces of usable marijuana.

(d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.

(e) More than 72 ounces of cannabinoid products in liquid form.

(f) More than one ounce of cannabinoid extracts.

(g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license under ORS 475B.105.

(2) Except as provided in subsection (3) of this section, unlawful possession of a marijuana item by a person under 21 years of age is a Class A misdemeanor.

(3) Unlawful possession of a marijuana item by a person under 21 years of age is a Class C felony, if the amount possessed is:

(a) More than 16 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this subsection;

(b) More than eight pounds of usable marijuana in a public place; or

(c) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475B.105. [2017 c.21 §4]

475B.345 [2015 c.614 §34a; 2016 c.91 §3; 2017 c.183 §86; renumbered 475B.491 in 2017]

475B.346 Unlawful delivery of marijuana item. (1) Except for licensees and licensee representatives acting in accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS 475B.010 to 475B.545, and except for a person acting within the scope of and in compliance with ORS 475B.301, it is unlawful for any person to deliver a marijuana item.

(2) Except as provided in subsection (3) of this section, unlawful delivery of a marijuana item is a Class A misdemeanor.

(3) Unlawful delivery of a marijuana item is:

(a) A Class B misdemeanor, if a person 21 years of age or older unlawfully delivers usable marijuana, for no consideration, to a person 21 years of age or older, and the total amount of usable marijuana delivered is not more than twice the amount described in ORS 475B.301 (7).

(b) A Class C felony, if:

(A) The delivery involves:

(i) More than 16 times the applicable maximum amount specified in ORS 475B.337 (1)(a), (c), (d), (e) or (f);

(ii) More than eight pounds of usable marijuana in a public place; or

(iii) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475B.105.

(B) The marijuana item is delivered to a person under 21 years of age, unless the person delivering the marijuana item is under 24 years of age at the time of the delivery and delivers not more than one ounce of usable marijuana, for no consideration, to a person who is 16 years of age or older. [2017 c.21 §5]

475B.349 Unlawful manufacture of marijuana item. (1) Except for licensees and licensee representatives acting in accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS 475B.010 to 475B.545, and except for a person acting within the scope of and in compliance with ORS 475B.301, it is unlawful for any person to manufacture a marijuana item.

(2) Except as provided in subsection (3) of this section, unlawful manufacture of a marijuana item is a Class A misdemeanor.

(3) Unlawful manufacture of a marijuana item is:

(a) A Class B misdemeanor, if a person 21 years of age or older unlawfully manufactures homegrown marijuana at a household and the total number of homegrown

marijuana plants at the household exceeds four marijuana plants but does not exceed eight marijuana plants.

(b) A Class C felony, if:

(A) A person unlawfully manufactures marijuana and the total number of marijuana plants exceeds 12 marijuana plants; or

(B) A person unlawfully manufactures a cannabinoid product or a cannabinoid concentrate and the total amount of cannabinoid products or the total amount of cannabinoid concentrates exceeds twice the applicable maximum amount specified in ORS 475B.337 (1)(d), (e) or (f).

(c) A Class B felony, if a person unlawfully manufactures a cannabinoid extract. [2017 c.21 §6]

475B.350 [2015 c.1 §9; renumbered 475B.501 in 2017]

475B.353 [2015 c.1 §8; renumbered 475B.506 in 2017]

475B.354 Classification of felony under ORS 475B.337, 475B.341, 475B.346 and 475B.349. (1) Except as provided in subsection (3) of this section, a felony under ORS 475B.337 or 475B.341 shall be classified as crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(2) Except as provided in subsection (3) of this section, a felony under ORS 475B.346 or 475B.349 shall be classified as crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(3) Subject to subsection (4) of this section, a felony under ORS 475B.337, 475B.341, 475B.346 or 475B.349 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation is a commercial marijuana offense. A violation is a commercial marijuana offense for purposes of this subsection if the violation was committed in conjunction with at least three of the following factors:

(a) The offender delivered a marijuana item for consideration;

(b) The offender was in possession of \$300 or more in cash;

(c) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), the offender used, attempted to use or threatened to use a deadly weapon or dangerous weapon, as those terms are defined in ORS 161.015, or the offender was in possession of a firearm or other deadly weapon or dangerous weapon for the purpose of using the deadly weapon or dangerous weapon;

(d) The offender was in possession of materials being used for the packaging of marijuana items, such as scales, wrapping or foil, other than a material used to contain

the marijuana item that is the subject of the violation;

(e) The offender was in possession of marijuana item transaction records or customer lists;

(f) The offender was in possession of stolen property;

(g) The offender was in possession of manufacturing paraphernalia specifically designed for producing marijuana, such as recipes, precursor chemicals, laboratory equipment, lighting equipment, ventilating equipment or power generation equipment;

(h) The offender modified structures by painting, wiring, plumbing or lighting the structures to facilitate the offense;

(i) The offender used public lands to manufacture the marijuana item; or

(j) The offender constructed fortifications or took security measures that had the potential to injure persons.

(4) To prove that a violation is a commercial marijuana offense for purposes of subsection (3) of this section, the state must plead in the accusatory instrument at least three of the factors described in subsection (3) of this section. The state has the burden of proving each factor beyond a reasonable doubt. [2017 c.21 §7]

475B.355 [2015 c.1 §11; 2015 c.614 §41; 2017 c.183 §87; renumbered 475B.514 in 2017]

475B.358 [2015 c.1 §10; 2015 c.614 §40; 2017 c.183 §88; renumbered 475B.518 in 2017]

475B.359 Arson incident to manufacture of cannabinoid extract in first degree. (1) As used in this section:

(a) “Property” has the meaning given that term in ORS 164.005.

(b) “Property of another” and “protected property” have the meanings given those terms in ORS 164.305.

(2) A person commits the crime of arson incident to manufacture of a cannabinoid extract in the first degree if, by knowingly engaging in the manufacture of a cannabinoid extract, the person causes a fire or causes an explosion that damages:

(a) The protected property of another person;

(b) Any property, whether the property of the person or the property of another person, if the fire or explosion recklessly places another person in danger of physical injury or the protected property of another person in danger of damage; or

(c) Any property, whether the property of the person or the property of another person, if the fire or explosion recklessly causes serious physical injury to a firefighter or

peace officer acting in the line of duty relating to the fire or explosion.

(3) Arson incident to manufacture of a cannabinoid extract in the first degree is a Class A felony.

(4) This section does not apply to a licensee that is authorized under the laws of this state to engage in the manufacture of cannabinoid extracts. [2017 c.21 §9]

475B.360 [2015 c.614 §4; 2017 c.21 §118; renumbered 475B.521 in 2017]

475B.363 Arson incident to manufacture of cannabinoid extract in second degree. (1) As used in this section:

(a) “Property” has the meaning given that term in ORS 164.005.

(b) “Property of another” and “protected property” have the meanings given those terms in ORS 164.305.

(2) A person commits the crime of arson incident to manufacture of a cannabinoid extract in the second degree if, by knowingly engaging in the manufacture of a cannabinoid extract, the person causes a fire or causes an explosion that damages:

(a) Any building of another person that is not protected property; or

(b) The property of another, if the damages to the property exceed \$750.

(2) Arson incident to manufacture of a cannabinoid extract in the second degree is a Class C felony.

(3) This section does not apply to a licensee that is authorized under the laws of this state to engage in the manufacture of cannabinoid extracts. [2017 c.21 §9a]

475B.365 [2015 c.1 §68; 2015 c.614 §65; 2017 c.183 §89; renumbered 475B.523 in 2017]

475B.367 Causing another person to ingest marijuana. (1) As used in this section:

(a) “Crime of violence” has the meaning given that term in ORS 475.908.

(b)(A) “Ingest” means to consume or otherwise deliver a cannabinoid into the body of a person.

(B) “Ingest” does not include the inhalation of smoke, aerosols or vapors created by smoking, aerosolizing or vaporizing a marijuana item.

(2)(a) A person commits the offense of causing another person to ingest marijuana if the person knowingly or intentionally causes the other person to ingest a marijuana item without the consent of the other person.

(b) Causing another person to ingest marijuana is a Class B felony.

(c) A violation of this subsection shall be classified as a person felony and crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(3)(a) Notwithstanding subsection (2) of this section, causing another person to ingest marijuana is a Class A felony if the person, with the intent of committing or facilitating a crime of violence against the other person, knowingly or intentionally causes the other person to ingest a marijuana item without the consent of the other person.

(b) A violation of this subsection shall be classified as a person felony and crime category 9 of the sentencing guidelines grid of the Oregon Criminal Justice Commission. [2017 c.21 §11]

475B.370 [2015 c.614 §34(1) to (3); 2016 c.23 §3; 2017 c.183 §90; renumbered 475B.526 in 2017]

475B.371 Administration to another person under 18 years of age. (1) Except as authorized under ORS 475B.010 to 475B.545, 475B.550 to 475B.590, 475B.600 to 475B.655 and 475B.785 to 475B.949 and rules adopted under ORS 475B.010 to 475B.545, 475B.550 to 475B.590, 475B.600 to 475B.655 and 475B.785 to 475B.949, it is unlawful for a person to intentionally administer a marijuana item to the body of another person who is under 18 years of age by inhalation, ingestion or any other means.

(2) Intentionally administering a marijuana item to the body of a person who is under 18 years of age is a Class A felony.

(3) A violation of this section shall be classified as a person felony and crime category 9 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(4) It is an affirmative defense to a charge of intentionally administering a marijuana item to the body of a person who is under 18 years of age if:

(a) The person administering the marijuana item was less than three years older than the other person at the time of the administration, and the other person consented to the administration; or

(b) The marijuana item was administered for a medical purpose with the consent of the person under 18 years of age, and the person under 18 years of age was a registry identification cardholder as defined in ORS 475B.791 at the time of the administration. [2017 c.21 §12]

475B.373 [2015 c.614 §114; renumbered 475B.529 in 2017]

475B.375 [2015 c.1 §6(2); 2015 c.614 §39(2); 2016 c.23 §6; 2016 c.83 §14; renumbered 475B.531 in 2017]

475B.376 Unlawful sale or delivery of marijuana paraphernalia. (1) As used in this section, “marijuana paraphernalia” means an object that is marketed to be used

for, or that is designed for, planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a marijuana item. “Marijuana paraphernalia” does not include hypodermic syringes or needles.

(2) It is unlawful for a person to sell or deliver, to possess with intent to sell or deliver or to manufacture with intent to sell or deliver marijuana paraphernalia to a person who is under 21 years of age, knowing that the marijuana paraphernalia will be used for the purpose for which it was marketed or designed.

(3) Violation of this section is a Class B violation.

(4) Subject to the provisions of ORS chapter 131A, and notwithstanding the violation classification specified in subsection (3) of this section, the Oregon Liquor Control Commission may purchase, possess, seize or dispose of marijuana paraphernalia as is necessary for the commission to ensure compliance with and enforce this section and any rule adopted under this section.

(5) In determining whether an object is marijuana paraphernalia under this section or drug paraphernalia under ORS 475.525, a trier of fact in an administrative or judicial proceeding must consider, in addition to any other relevant factor, the following:

(a) Any oral or written instruction provided with the object related to the object’s use;

(b) Any descriptive material packaged with the object that explains or depicts the object’s use;

(c) Any national or local advertising related to the object’s use;

(d) Any proffered expert testimony related to the object’s use;

(e) The manner in which the object is displayed for sale, if applicable; and

(f) Any other proffered evidence substantiating the object’s intended use. [2017 c.21 §14]

475B.378 [2015 c.1 §66; 2015 c.614 §63; renumbered 475B.533 in 2017]

475B.380 [2015 c.1 §12; 2015 c.614 §42; renumbered 475B.535 in 2017]

475B.381 Prohibition against using marijuana item in public place. (1) It is unlawful for any person to engage in the use of marijuana items in a public place.

(2) A violation of subsection (1) of this section is a Class B violation. [Formerly 475B.280]

**(Defenses, Protection
and Expungement)**

475B.385 Immunity for person making report of violation. A person who, in good faith, makes a report of a violation of ORS 475B.010 to 475B.545, and who has reasonable grounds for making the report, is immune from any civil or criminal liability that otherwise might be incurred or imposed with respect to making the report or to the content of the report. The person has the same immunity with respect to participating in a judicial proceeding resulting from the report. [2017 c.21 §17]

475B.389 Effect of crime under federal law or law of another state. If a crime described in ORS 475B.010 to 475B.545 is a crime under federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state. [2017 c.21 §18]

Note: Section 127, chapter 21, Oregon Laws 2017, provides:

Sec. 127. Sections 3 to 7, 9, 9a, 11, 12, 14 and 17 to 20 of this 2017 Act, the amendments to statutes by sections 1, 15 and 22 to 125 of this 2017 Act and the repeal of statutes and session laws by section 126 of this 2017 Act apply to conduct occurring on and after the effective date of this 2017 Act [April 21, 2017]. [2017 c.21 §127]

475B.393 Protection for person obtaining assistance for cannabis-related overdose. (1) As used in this section, “cannabis-related overdose” means an acute condition, including mania, hysteria, extreme physical illness, coma or death, resulting from the consumption or use of cannabis, or another substance with which cannabis was combined, that a person would reasonably believe requires medical attention.

(2)(a) A person who contacts emergency medical services or a law enforcement agency to obtain medical assistance for another person because of a cannabis-related overdose is immune from arrest or prosecution for violating ORS 475B.337, 475B.341 or 475B.376 if the evidence of the offense was obtained because the person contacted emergency medical services or a law enforcement agency.

(b) A person who is in need of medical assistance because of a cannabis-related overdose is immune from arrest or prosecution for violating ORS 475B.337, 475B.341 or 475B.376 if the evidence of the offense was obtained because any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.

(3) A person may not be arrested for violating, or found to be in violation of, the conditions of the person’s pretrial release,

probation, post-prison supervision or parole if the violation involves:

(a) The possession or use of a marijuana item or frequenting a place where marijuana items are used; and

(b)(A) The evidence of the violation was obtained because the person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to a cannabis-related overdose; or

(B) The evidence of the violation was obtained because the person was in need of medical assistance due to a cannabis-related overdose and any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.

(4)(a) A person may not be arrested on an outstanding warrant for violating ORS 475B.337, 475B.341 or 475B.376, or on an outstanding warrant for a violation, other than commission of a new crime, of the conditions of the person’s probation, post-prison supervision or parole for conduct that would constitute a violation of ORS 475B.337, 475B.341 or 475B.376, if the person was located because:

(A) The person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to a cannabis-related overdose; or

(B) The person was in need of medical assistance due to a cannabis-related overdose and any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.

(b) This subsection does not apply to outstanding federal warrants or outstanding warrants issued from other states.

(5) The immunity from arrest and prosecution described in this section is not grounds for the suppression of evidence relating to a criminal offense other than the offenses described in ORS 475B.337, 475B.341 and 475B.376. [2017 c.21 §19]

475B.395 [2015 c.1 §70; 2015 c.614 §67; renumbered 475B.545 in 2017]

475B.398 Affirmative defense. It is an affirmative defense to a charge of violating ORS 475B.337, 475B.346 or 475B.349 that:

(1) The defendant had held a license issued under ORS 475B.010 to 475B.545, or was performing work for or on behalf of a person that had held a license issued under ORS 475B.010 to 475B.545;

(2) The violation concerned an activity for which the license exempts the person from ORS 475B.337, 475B.346 or 475B.349;

(3) The license had lapsed or had been suspended or revoked; and

(4) The defendant reasonably believed that the license had not lapsed or had not been suspended or revoked. [2017 c.21 §20]

475B.399 [2015 c.614 §170; 2017 c.183 §91; renumbered 475B.548 in 2017]

475B.400 [Formerly 475.300; renumbered 475B.785 in 2017]

475B.405 [Formerly 475.346; renumbered 475B.788 in 2017]

(Civil Enforcement of ORS 475B.010 to 475B.545)

475B.409 Authority to issue subpoenas. For purposes of ORS 475B.010 to 475B.545, the provisions of ORS 183.440 apply to subpoenas issued by the Oregon Liquor Control Commission and to subpoenas issued by an authorized agent of the commission. [Formerly 475B.290]

475B.410 [Formerly 475.302; renumbered 475B.791 in 2017]

475B.413 [Formerly 475.340; renumbered 475B.794 in 2017]

475B.415 [Formerly 475.309; 2016 c.24 §9; 2016 c.107 §1; renumbered 475B.797 in 2017]

475B.416 Civil penalty for violating ORS 475B.010 to 475B.545. In addition to any other liability or penalty provided by law, the Oregon Liquor Control Commission may impose for each violation of a provision of ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545 a civil penalty that does not exceed \$5,000 for each violation. The commission shall impose civil penalties under this section in the manner provided by ORS 183.745. Moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [Formerly 475B.295]

475B.418 [Formerly 475.312; renumbered 475B.804 in 2017]

475B.419 [2015 c.844 §6; renumbered 475B.807 in 2017]

475B.420 [Formerly 475.304; 2016 c.24 §5; renumbered 475B.810 in 2017]

475B.423 [2015 c.614 §81a; renumbered 475B.816 in 2017]

475B.424 Forfeiture of building or premises for violating ORS 475B.010 to 475B.545. If the owner of a building or premises knowingly has used the building or premises for, or allowed the building or premises to be occupied for, the production, processing, sale or use of marijuana items contrary to the provisions of ORS 475B.010 to 475B.545, 475B.550 to 475B.590, 475B.600 to 475B.655 or 475B.785 to 475B.949, or contrary to the provisions of any other state law or local ordinance regulating the production, processing, sale or use of marijuana items, the building or premises is subject to a lien

for, and may be sold to pay all fines and costs assessed against the occupants of the building or premises for, any violation of ORS 475B.010 to 475B.545, 475B.550 to 475B.590, 475B.600 to 475B.655 or 475B.785 to 475B.949, or any other state law or local ordinance regulating the production, processing, sale or use of marijuana items. The lien must be enforced immediately by civil action in a court that has jurisdiction over the area in which the building or premises is located, by the district attorney of the county in which the building or premises is located. [Formerly 475B.298]

475B.425 [2015 c.614 §83; renumbered 475B.822 in 2017]

475B.428 [Formerly 475.320; 2016 c.24 §23; 2017 c.183 §37; 2017 c.613 §11; renumbered 475B.831 in 2017]

(Criminal Enforcement of ORS 475B.010 to 475B.545)

475B.429 Authority of law enforcement to enforce ORS 475B.010 to 475B.545. The law enforcement officers of this state may enforce ORS 475B.010 to 475B.545 and assist the Oregon Liquor Control Commission in detecting violations of ORS 475B.010 to 475B.545 and apprehending offenders. A law enforcement officer who has notice, knowledge or reasonable ground of suspicion of a violation of ORS 475B.010 to 475B.545 shall immediately notify the district attorney who has jurisdiction over the violation and furnish the district attorney who has jurisdiction over the violation with names and addresses of any witnesses to the violation or other information related to the violation. [Formerly 475B.300]

475B.430 [2015 c.614 §82a; 2017 c.183 §92; renumbered 475B.834 in 2017]

475B.433 [Formerly 475.306; renumbered 475B.837 in 2017]

475B.435 [2015 c.614 §85; 2016 c.24 §6; renumbered 475B.840 in 2017]

475B.436 Seizure of marijuana items by law enforcement personnel. (1) When a law enforcement officer arrests a person for violating ORS 475B.010 to 475B.545, the law enforcement officer may take into possession all marijuana items and other property that the arrested person has in possession, or that is on the premises, that apparently is being used in violation of ORS 475B.010 to 475B.545.

(2) If a person arrested as described in this section is convicted, and the court finds that the marijuana items and other property have been used in violation of ORS 475B.010 to 475B.545:

(a) The marijuana items must be forfeited to an appropriate state or local law enforcement agency and must be delivered by the court or law enforcement officer, at the di-

rection of the court, to the law enforcement agency; and

(b) Subject to any other applicable law, the other property must be forfeited to the Oregon Liquor Control Commission, and must be delivered by the court or law enforcement officer, at the direction of the court, to the commission.

(3) The commission is authorized to destroy or otherwise dispose of any property the commission receives under subsection (2)(b) of this section, provided that if the commission elects to sell the property, including furniture, furnishings, and equipment and facilities for the storing, serving or using of marijuana items, the clear proceeds of the sale must be credited to the State Treasury and deposited in the Common School Fund. [Formerly 475B.305]

475B.438 [2015 c.614 §85b; renumbered 475B.846 in 2017]

475B.440 [2015 c.614 §85a; renumbered 475B.849 in 2017]

475B.442 Duty to notify Oregon Liquor Control Commission of conviction of licensee. The county courts, district attorneys and municipal authorities, immediately upon the conviction of a licensee of a violation of ORS 475B.010 to 475B.545, or of a violation of any other law of this state or ordinance of a city or county located in this state an element of which is the possession, delivery or manufacture of a marijuana item, shall notify the Oregon Liquor Control Commission of the conviction. [Formerly 475B.310]

475B.443 [2015 c.614 §85c; 2016 c.23 §18; 2016 c.24 §7; renumbered 475B.852 in 2017]

475B.445 [2015 c.614 §85d; renumbered 475B.855 in 2017]

475B.448 Penalty for violating ORS 475B.010 to 475B.545. Subject to ORS 153.022, violation of a rule adopted under ORS 475B.025 (2)(c) is a Class C violation. [Formerly 475B.315]

475B.450 [Formerly 475.314; 2016 c.24 §8; 2016 c.83 §30; 2017 c.613 §27; renumbered 475B.858 in 2017]

475B.453 [2015 c.614 §86b; renumbered 475B.867 in 2017]

(Regulation by Cities and Counties of Cannabis for Recreational Use)

475B.454 Preemption of municipal charter amendments and local ordinances. The provisions of ORS 475B.010 to 475B.545 are designed to operate uniformly throughout the state and are paramount and superior to and fully replace and supersede any municipal charter amendment or local ordinance inconsistent with the provisions of ORS 475B.010 to 475B.545. Amendments and ordinances that are inconsistent with the

provisions of ORS 475B.010 to 475B.545 are repealed. [Formerly 475B.320]

475B.455 [2015 c.614 §86a; renumbered 475B.870 in 2017]

475B.458 [2015 c.614 §85e; renumbered 475B.879 in 2017]

475B.460 [Formerly 475.331; renumbered 475B.882 in 2017]

475B.461 Prohibition against operation of premises for which license issued; petition; election. (1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question as to whether the operation of premises for which a license has been issued under ORS 475B.010 to 475B.545 should be prohibited in the city or county.

(2) Except as otherwise provided in this section, the requirements for preparing, circulating and filing a petition under this section:

(a) In the case of a city, must be as provided for an initiative petition under ORS 250.265 to 250.346.

(b) In the case of a county, must be as provided for an initiative petition under ORS 250.165 to 250.235.

(3) A petition under this section:

(a) Must be filed not less than 60 days before the day of the election; and

(b) Must be signed by not less than 10 percent of the electors registered in the city or county.

(4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section must be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.

(5) A signature is not valid unless signed within 180 days before the petition is filed.

(6) An election under this section must be held at the time of the next statewide general election.

(7) An election under this section must be conducted under ORS chapters 246 to 260. [Formerly 475B.325]

475B.462 [2015 c.614 §88d; renumbered 475B.885 in 2017]

475B.464 [2015 c.614 §88e; renumbered 475B.888 in 2017]

475B.468 [2015 c.614 §86c; renumbered 475B.898 in 2017]

475B.469 [2015 c.614 §86d; renumbered 475B.901 in 2017]

475B.470 [2015 c.614 §86e; renumbered 475B.904 in 2017]

475B.474 Effective date of prohibition against operation of licensed premises. In each county or city that returns a majority vote for or against prohibition, the law shall take effect on January 1 following the day of election. [Formerly 475B.330]

475B.475 [2015 c.614 §87; renumbered 475B.907 in 2017]

475B.477 Ordinance prohibiting possession. (1) As used in this section, “designated primary caregiver,” “immature marijuana plant,” “marijuana,” “medical cannabinoid product” and “registry identification cardholder” have the meanings given those terms in ORS 475B.791.

(2) A city or county may not adopt an ordinance, by referral or otherwise, that prohibits or otherwise limits:

(a) The privileges described in ORS 475B.301; or

(b) The right of a registry identification cardholder and the designated primary caregiver of a registry identification cardholder to:

(A) Possess the seeds of marijuana, immature marijuana plants or medical cannabinoid products as described in ORS 475B.785 to 475B.949;

(B) Jointly possess up to six mature marijuana plants and up to 12 immature marijuana plants under ORS 475B.831 (1); or

(C) Jointly possess up to 24 ounces of usable marijuana under ORS 475B.834 (1). [2016 c.24 §33; 2017 c.183 §38]

Note: 475B.477 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

475B.478 [Formerly 475.316; renumbered 475B.910 in 2017]

475B.479 Right to possess marijuana items for personal use. ORS 475B.461 does not prevent any person residing in the county or city from having, for personal use, a marijuana item purchased from a marijuana retailer licensed under ORS 475B.105. [Formerly 475B.335]

475B.480 [Formerly 475.319; renumbered 475B.913 in 2017]

475B.483 [Formerly 475.326; renumbered 475B.916 in 2017]

475B.485 [Formerly 475.328; renumbered 475B.919 in 2017]

475B.486 Local time, place and manner regulations. (1) For purposes of this section, “reasonable regulations” includes:

(a) Reasonable conditions on the manner in which a marijuana producer that holds a license issued under ORS 475B.070 may produce marijuana or in which a researcher of cannabis that holds a certificate issued

under ORS 475B.286 may produce marijuana or propagate immature marijuana plants;

(b) Reasonable conditions on the manner in which a marijuana processor that holds a license issued under ORS 475B.090 may process marijuana or in which a researcher of cannabis that holds a certificate issued under ORS 475B.286 may process marijuana;

(c) Reasonable conditions on the manner in which a marijuana wholesaler that holds a license issued under ORS 475B.100 may sell marijuana at wholesale;

(d) Reasonable conditions on the manner in which a marijuana retailer that holds a license issued under ORS 475B.105 may sell marijuana items;

(e) Reasonable limitations on the hours during which a premises for which a license has been issued under ORS 475B.010 to 475B.545 may operate;

(f) Reasonable requirements related to the public’s access to a premises for which a license or certificate has been issued under ORS 475B.010 to 475B.545; and

(g) Reasonable limitations on where a premises for which a license or certificate may be issued under ORS 475B.010 to 475B.545 may be located.

(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license or certificate has been issued under ORS 475B.010 to 475B.545 if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not:

(a) Adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475B.105 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475B.105.

(b) Adopt an ordinance that imposes a setback requirement for an agricultural building used to produce marijuana located on a premises for which a license has been issued under ORS 475B.070 if the agricultural building:

(A) Was constructed on or before July 1, 2015, in compliance with all applicable land use and building code requirements at the time of construction;

(B) Is located at an address where a marijuana grow site first registered with the Oregon Health Authority under ORS 475B.810 on or before January 1, 2015;

(C) Was used to produce marijuana pursuant to the provisions of ORS 475B.785 to 475B.949 on or before January 1, 2015; and

(D) Has four opaque walls and a roof.
[Formerly 475B.340]

475B.490 [Formerly 475.323; 2016 c.23 §20a; renumbered 475B.922 in 2017]

475B.491 Local tax or fee; referral to electors for approval. (1)(a) Except as expressly authorized by this section, the authority to impose a tax or fee on the production, processing or sale of marijuana items in this state is vested solely in the Legislative Assembly.

(b) Except as expressly authorized by this section, a county, city or other municipal corporation or district may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items in this state.

(2) Subject to subsection (4) of this section, the governing body of a city or county may adopt an ordinance to be referred to the electors of the city or county as described in subsection (3) of this section that imposes a tax or a fee on the sale of marijuana items that are sold in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of a county by a marijuana retailer that holds a license issued under ORS 475B.105.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body shall refer the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(4) An ordinance adopted under this section may not impose a tax or fee:

(a) In excess of three percent; or

(b) On a registry identification cardholder or on a designated primary caregiver who is purchasing a marijuana item for a registry identification cardholder. [Formerly 475B.345]

475B.495 [2015 c.614 §88; renumbered 475B.925 in 2017]

475B.496 Repeal of city, county ordinance that prohibits certain establishments. (1) The governing body of a city or county may repeal an ordinance that prohibits the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

(a) Marijuana processing sites registered under ORS 475B.840;

(b) Medical marijuana dispensaries registered under ORS 475B.858;

(c) Marijuana producers that hold a license issued under ORS 475B.070;

(d) Marijuana processors that hold a license issued under ORS 475B.090;

(e) Marijuana wholesalers that hold a license issued under ORS 475B.100;

(f) Marijuana retailers that hold a license issued under ORS 475B.105;

(g) Marijuana producers that hold a license issued under ORS 475B.070 and that the Oregon Liquor Control Commission has designated as an exclusively medical licensee under ORS 475B.122;

(h) Marijuana processors that hold a license issued under ORS 475B.090 and that the commission has designated as an exclusively medical licensee under ORS 475B.127;

(i) Marijuana wholesalers that hold a license issued under ORS 475B.100 and that the commission has designated as an exclusively medical licensee under ORS 475B.129;

(j) Marijuana retailers that hold a license issued under ORS 475B.105 and that the commission has designated as an exclusively medical licensee under ORS 475B.131; or

(k) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county repeals an ordinance under this section, the governing body must provide the text of the ordinance:

(a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a medical marijuana dispensary registered under ORS 475B.858 or a marijuana processing site registered under ORS 475B.840; or

(b) To the commission, in a form and manner prescribed by the commission, if the ordinance concerns a premises for which a license has been issued under ORS 475B.010 to 475B.545. [2016 c.24 §30; 2017 c.183 §29]

Note: 475B.496 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

475B.500 [2014 c.79 §2; 2015 c.614 §89; 2016 c.23 §5; renumbered 475B.928 in 2017]

(Powers and Duties of State Agencies and Officers and Governor)

475B.501 Duty of Oregon Health Authority to assist. The Oregon Health Authority shall assist and cooperate with the Oregon Liquor Control Commission and the State Department of Agriculture to the extent necessary for the commission and the department to carry out the duties of the commission and the department under ORS 475B.010 to 475B.545. [Formerly 475B.350]

475B.505 [2015 c.614 §88a; renumbered 475B.931 in 2017]

475B.506 Duty of State Department of Agriculture to assist. The State Department of Agriculture shall assist and cooperate with the Oregon Liquor Control Commission and the Oregon Health Authority to the extent necessary for the commission and the authority to carry out the duties of the commission and the authority under ORS 475B.010 to 475B.545. [Formerly 475B.353]

475B.507 [2015 c.614 §88c; renumbered 475B.934 in 2017]

475B.510 [2015 c.614 §88b; 2017 c.21 §119; renumbered 475B.937 in 2017]

475B.511 Authority of State Department of Agriculture. The State Department of Agriculture may possess, test and dispose of marijuana items. [2017 c.183 §45]

475B.513 [2015 c.614 §88f; renumbered 475B.940 in 2017]

475B.514 Prohibition against refusing to perform duties on basis that certain conduct is prohibited by federal law. (1) The Oregon Liquor Control Commission, the State Department of Agriculture and the Oregon Health Authority may not refuse to perform any duty under ORS 475B.010 to 475B.545 on the basis that manufacturing, distributing, dispensing, possessing or using marijuana is prohibited by federal law.

(2) The commission may not revoke or refuse to issue or renew a license, certificate or permit under ORS 475B.010 to 475B.545 on the basis that manufacturing, distributing, dispensing, possessing or using marijuana is prohibited by federal law. [Formerly 475B.355]

475B.515 [Formerly 475.342; renumbered 475B.943 in 2017]

475B.517 [Formerly 475.334; renumbered 475B.946 in 2017]

475B.518 Immunity for state agencies, officers and employees in performance of duties. A person may not sue the Oregon Liquor Control Commission or a member of the commission, the State Department of Agriculture or the Oregon Health Authority, or any employee of the commission, department or authority, for performing or omitting to perform any duty, function or power of the commission, department or authority set forth in ORS 475B.010 to 475B.545 or in any other law of this state requiring the commission, department or authority to perform a duty, function or power related to marijuana items. [Formerly 475B.358]

475B.520 [Formerly 475.303; repealed by 2017 c.613 §31]

475B.521 Authority to purchase, possess, seize or dispose of marijuana items. Subject to any applicable provision of ORS chapter 131A or 183, any state officer, board, commission, corporation, institution, department or other state body, and any local offi-

cer, board, commission, institution, department or other local government body, that is authorized by the statutory laws of this state to perform a duty, function or power with respect to a marijuana item, may purchase, possess, seize or dispose of the marijuana item as the state officer, board, commission, corporation, institution, department or other state body, or the local officer, board, commission, institution, department or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law. [Formerly 475B.360]

475B.523 Authority of Governor to suspend license, certificate or permit without notice. In case of invasion, disaster, insurrection or riot, or imminent danger of invasion, disaster, insurrection or riot, the Governor may, for the duration of the invasion, disaster, insurrection or riot, or imminent danger, immediately and without notice suspend, in the area involved, any license, certificate or permit issued under ORS 475B.010 to 475B.545. [Formerly 475B.365]

475B.525 [Formerly 475.338; renumbered 475B.949 in 2017]

(Other Provisions)

475B.526 Marijuana as crop; exceptions to permitted uses. (1) Marijuana is:

(a) A crop for the purposes of “farm use” as defined in ORS 215.203;

(b) A crop for purposes of a “farm” and “farming practice,” both as defined in ORS 30.930;

(c) A product of farm use as described in ORS 308A.062; and

(d) The product of an agricultural activity for purposes of ORS 568.909.

(2) Notwithstanding ORS chapters 195, 196, 197, 215 and 227, the following are not permitted uses on land designated for exclusive farm use:

(a) A new dwelling used in conjunction with a marijuana crop;

(b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and

(c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.

(3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213, 215.283 and 475B.063.

(4) This section applies to:

(a) Marijuana producers that hold a license issued under ORS 475B.070;

(b) Persons registered under ORS 475B.810 and designated to produce marijuana by one or more persons who hold valid registry identification cards issued under ORS 475B.797; and

(c) For the purpose of producing marijuana or propagating immature marijuana plants, researchers of cannabis that hold a certificate issued under ORS 475B.286. [Formerly 475B.370]

475B.529 Regulation of marijuana items as food or other commodity subject to regulation by State Department of Agriculture. (1) Notwithstanding the authority granted to the State Department of Agriculture under ORS chapters 571, 618 and 633 and ORS 632.206 to 632.260, 632.275 to 632.290, 632.450 to 632.490, 632.516 to 632.625, 632.705 to 632.815, 632.835 to 632.850 and 632.900 to 632.985, the department may not exercise authority over marijuana items or a licensee, except that ORS 618.121 to 618.161, 618.991, 618.995, 633.311 to 633.479, 633.992 and 633.994 apply to marijuana items or to a licensee.

(2) In exercising its authority under ORS chapter 616, the department may not:

(a) Establish standards for marijuana as a food additive, as defined in ORS 616.205;

(b) Consider marijuana to be an adulterant, unless the concentration of a cannabinoid in a cannabinoid product, cannabinoid concentrate or cannabinoid extract exceeds acceptable levels established by the Oregon Health Authority by rule; or

(c) Apply ORS 616.256, 616.265, 616.270 or 616.275 to cannabinoid edibles or enforce ORS 616.256, 616.265, 616.270 or 616.275 with respect to cannabinoid edibles. [Formerly 475B.373]

475B.531 Exceptions from applicability of ORS 475B.010 to 475B.545. Except for ORS 475B.526 and 475B.529, ORS 475B.010 to 475B.545:

(1) Do not apply to the extent a person acts within the scope of and in compliance with the Oregon Medical Marijuana Act; and

(2) Do not amend or affect duties, functions and powers of the Oregon Health Authority under the Oregon Medical Marijuana Act. [Formerly 475B.375]

475B.533 Violation of laws of this state as nuisance. Any room, house, building, boat, structure or place of any kind where marijuana items are sold, manufactured, bartered or given away in violation of the laws of this state, or where persons are permitted to resort for the purpose of using

marijuana items in violation of the laws of this state, or any place where marijuana items are kept for sale, barter or gift in violation of the laws of this state, and all marijuana items or property subject to confiscation under ORS 475B.436 kept and used in such a place, are a common nuisance. A person who maintains or assists in maintaining the common nuisance or knowingly suffers or permits the nuisance to exist in any place of which the person is the owner, manager or lessor, is guilty of a violation of ORS 475B.010 to 475B.545. [Formerly 475B.378]

475B.535 Enforceability of contracts.

A contract is not unenforceable on the basis that manufacturing, distributing, dispensing, possessing or using marijuana is prohibited by federal law. [Formerly 475B.380]

475B.537 Oregon Liquor Control Commission hotline for verification of license.

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.545 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 water-master of any water district. [2017 c.476 §4]

475B.539 Transport of marijuana items to trade show; rules. (1) Notwithstanding ORS 475B.206 or any other provision prohibiting the transportation of marijuana items to or from a location for which a license has not been issued under ORS 475B.010 to 475B.545 or prohibiting the possession of marijuana items at a location for which a license has not been issued under ORS 475B.010 to 475B.545, a licensee may transport marijuana items to and exhibit marijuana items at a trade show, the Oregon State Fair or a similar event if:

(a) The marijuana items are tracked using the system developed and maintained under ORS 475B.177;

(b) All of the marijuana items are returned to a premises for which a license has been issued under ORS 475B.010 to 475B.545 immediately after the conclusion of the event; and

(c) The licensee complies with any other requirement imposed by the Oregon Liquor Control Commission by rule or order for the purpose of ensuring the security of the marijuana items, for the purpose of preventing minors from having access to the

(c) The licensee complies with any other requirement imposed by the Oregon Liquor Control Commission by rule or order for the purpose of ensuring the security of the marijuana items, for the purpose of preventing minors from having access to the

marijuana items or for any other purpose deemed relevant by the commission.

(2) The commission shall adopt rules to implement this section. [2017 c.183 §17]

475B.541 Certain information related to licensure exempt from disclosure. (1) Subject to subsection (2) of this section, information is exempt from public disclosure under ORS 192.311 to 192.478 if the information is:

(a) The address of a premises for which a license has been issued or for which an applicant has proposed licensure under ORS 475B.070, 475B.090 or 485B.100;

(b) Is related to the security plan or the operational plan for a premises for which a license has been issued or for which an applicant has proposed licensure under ORS 475B.010 to 475B.545; or

(c) Is related to any record that the Oregon Liquor Control Commission determines contains proprietary information of a licensee.

(2) The exemption from public disclosure as provided by this section does not apply to a request for information if the request is made by a law enforcement agency. [2016 c.24 §22; 2017 c.183 §93]

475B.543 Governor agreements with Indian tribes; requirements. (1) The Governor, or the Governor's designee, may enter into an agreement with the governing body of a federally recognized Indian tribe located in this state for the purpose of cross-jurisdictional coordination and enforcement of marijuana-related businesses licensed to conduct business on tribal trust land by the governing body of the federally recognized Indian tribe.

(2) An agreement entered into under this section:

(a) May provide for the cross-jurisdictional coordination and enforcement of marijuana producers, marijuana processors, marijuana wholesalers, marijuana retailers and marijuana testing laboratories licensed by the governing body of the federally recognized Indian tribe.

(b) May require the governing body of the federally recognized Indian tribe to establish the same or similar requirements on marijuana producers, marijuana processors, marijuana wholesalers, marijuana retailers and marijuana testing laboratories that are consistent with the policies set forth in:

- (A) ORS 475B.010 to 475B.545;
- (B) ORS 475B.550 to 475B.590; and
- (C) ORS 475B.600 to 475B.655.

(c) Must ensure enforceable public health and safety standards and include a system to

regulate and track the purchase, sale, production, processing, transportation and delivery of marijuana items for marijuana producers, marijuana processors, marijuana wholesalers, marijuana retailers and marijuana testing laboratories that are licensed by the governing body of the federally recognized Indian tribe.

(d) May authorize an agency of this state to assist in the implementation and enforcement of the terms of the agreement. [2016 c.24 §35]

(Severability)

475B.545 Severability of ORS 475B.010 to 475B.545. If any section, subsection, paragraph, phrase or word of ORS 475B.010 to 475B.545 is held to be unconstitutional, void or illegal, either on its face or as applied, that holding does not affect the applicability, constitutionality or legality of any other section, subsection, paragraph, phrase or word of ORS 475B.010 to 475B.545. To that end, the sections, subsections, paragraphs, phrases and words of ORS 475B.010 to 475B.545 are intended to be severable. It is hereby declared to be the intent of the people of this state in adopting ORS 475B.010 to 475B.545 that ORS 475B.010 to 475B.545 would have been adopted had such unconstitutional, void or illegal sections, subsections, paragraphs, phrases or words, if any, not been included in ORS 475B.010 to 475B.545. [Formerly 475B.395]

(Biennial Report on Supply and Demand)

475B.548 Duty to report to Legislative Assembly. (1) As used in this section, "marijuana" and "marijuana item" have the meanings given those terms in ORS 475B.015.

(2) On or before February 1 of each odd-numbered year, the Oregon Liquor Control Commission shall report to the Legislative Assembly in the manner required by ORS 192.245, the approximate amount of marijuana produced by marijuana producers that hold a license issued under ORS 475B.070 and the approximate amount of marijuana items sold by marijuana retailers that hold a license issued under ORS 475B.105, and whether the supply of marijuana in this state is commensurate with the demand for marijuana items in this state. [Formerly 475B.399]

Note: Section 3, chapter 725, Oregon Laws 2017, provides:

Sec. 3. (1) Notwithstanding ORS 221.770, 471.805 and 471.810, for the biennium beginning July 1, 2017, the Oregon Liquor Control Commission may expend moneys from the Oregon Liquor Control Commission Account to pay any expenses incurred by the commission in implementing and carrying out duties under ORS 475B.010 to 475B.395 [series became 475B.010 to 475B.545]. Any expenditure made under this subsection is considered a

loan and must be repaid as provided in subsection (2) of this section.

(2) Not later than June 30, 2019, the commission shall transfer from the Marijuana Control and Regulation Fund to the Oregon Liquor Control Commission Account an amount equal to the total amount expended under subsection (1) of this section, plus an amount of simple interest calculated at two percent per annum of the total amount expended. [2017 c.725 §3]

TESTING OF CANNABIS AND CANNABIS PRODUCTS

475B.550 Definitions for ORS 475B.550 to 475B.590. As used in ORS 475B.550 to 475B.590:

(1) “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

(2) “Cannabinoid concentrate or extract” means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.

(3) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.

(4)(a) “Cannabinoid product” means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person’s skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.

(b) “Cannabinoid product” does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate or extract by itself; or

(C) Industrial hemp, as defined in ORS 571.300.

(5)(a) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300.

(6) “Marijuana item” means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(7) “Processing” means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(8) “Producing” means:

(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

(b) Drying marijuana leaves and flowers.

(9)(a) “Usable marijuana” means the dried leaves and flowers of marijuana.

(b) “Usable marijuana” does not include:

(A) The seeds, stalks and roots of marijuana; or

(B) Waste material that is a by-product of producing or processing marijuana. [2015 c.614 §91]

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

(a) Establishing standards for testing marijuana items.

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

(A) Microbiological contaminants;

(B) Pesticides;

(C) Other contaminants;

(D) Solvents or residual solvents; and

(E) Tetrahydrocannabinol and cannabidiol concentration.

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

(d) Establishing different minimum standards for different varieties of usable marijuana and different types of cannabinoid products and cannabinoid concentrates and extracts.

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

(3) In adopting rules under ORS 475B.785 to 475B.949, the authority may require:

(a) A person responsible for a marijuana grow site under ORS 475B.810 to test usable marijuana before transferring the usable marijuana to a registrant other than an individual who holds a registry identification card under ORS 475B.797; and

(b) A person processing marijuana to test cannabinoid products or cannabinoid concentrates or extracts before transferring the cannabinoid products or cannabinoid concentrates or extracts to a registrant other than

an individual who holds a registry identification card under ORS 475B.797.

(4) In adopting rules under ORS 475B.010 to 475B.545, the commission may require:

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

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

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

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

(7) The testing of marijuana items as required by this section must be conducted by a laboratory licensed by the commission under ORS 475B.560 and accredited by the authority under ORS 475B.565.

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

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

(b) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2015 c.614 §92]

475B.560 Laboratory licensure; qualifications; fees; rules. (1) A laboratory that conducts testing of marijuana items as required by ORS 475B.555 must have a license to operate at the premises at which the marijuana items are tested.

(2) For purposes of this section, the Oregon Liquor Control Commission shall adopt rules establishing:

(a) Qualifications to be licensed under this section, including that an applicant for licensure under this section must be accred-

ited by the Oregon Health Authority as described in ORS 475B.565;

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

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

(d) Procedures for:

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

(B) Documenting and reporting test results; and

(C) Disposing of samples of usable marijuana, cannabinoid products and cannabinoid concentrates or extracts that have been tested.

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

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

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

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

(b) A provision of ORS 475B.010 to 475B.545 or a rule adopted under a provision of ORS 475B.010 to 475B.545.

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

(7) Fee moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296 and are continuously appropriated to the commission for the purpose of carrying out the duties, functions and powers of the commission under ORS 475B.550 to 475B.590. [2015 c.614 §93]

475B.562 Authority to require fingerprints of applicants and other individuals. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Liquor Control Commission may require the fingerprints of any individual listed on an application submitted under ORS 475B.560. The powers conferred on the commission under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each partner of the limited partnership;

(2) If the applicant is a limited liability company, each member of the limited liability company;

(3) If the applicant is a corporation, each director and officer of the corporation;

(4) Any individual who holds a financial interest of 10 percent or more in the person applying for the license; and

(5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the license. [2016 c.23 §11]

475B.564 Statement of applicant for license under ORS 475B.560. (1) The Oregon Liquor Control Commission may require a licensee or applicant for a license under ORS 475B.560 to submit, in a form and manner prescribed by the commission, to the commission a sworn statement showing:

(a) The name and address of each person that has a financial interest in the business operating or to be operated under the license; and

(b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.

(2) The commission may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under ORS 475B.560 if the commission determines that a person that has a financial interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the commission to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license. [2017 c.183 §10]

475B.565 Laboratory accreditation; qualifications; fees; rules. (1) A laboratory that conducts testing of marijuana items as required by ORS 475B.555 must be accredited under ORS 438.605 to 438.620 and meet other qualifications as established by the Oregon Health Authority under this section.

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

(a) Complete an application;

(b) Undergo an onsite inspection; and

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

(3) The authority may inspect premises licensed under ORS 475B.560 to ensure com-

pliance with ORS 475B.550 to 475B.590 and rules adopted under ORS 475B.550 to 475B.590.

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

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

(b) A provision of ORS 475B.010 to 475B.545 or a rule adopted under a provision of ORS 475B.010 to 475B.545.

(5) In establishing fees under ORS 438.620 for laboratories that test marijuana items, the authority shall establish fees that are reasonably calculated to pay the expenses incurred by the authority under this section and ORS 438.605 to 439.620 in accrediting laboratories that test marijuana items. [2015 c.614 §94]

475B.570 Applicability of ORS 475B.550 to 475B.590. ORS 475B.550 to 475B.590 do not apply to:

(1) A person responsible for a marijuana grow site under ORS 475B.810 if the person is transferring usable marijuana or an immature marijuana plant, as defined in ORS 475B.015, to:

(a) A person who holds a registry identification card under ORS 475B.797 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(b) A person who has been designated as the primary caregiver under ORS 475B.804 of a person who holds a registry identification card under ORS 475B.797 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(2) A person who has been designated as the primary caregiver under ORS 475B.804 of a person who holds a registry identification card under ORS 475B.797 if the person is transferring a marijuana item to the person who holds a registry identification card. [2015 c.614 §95]

475B.575 Authority of Oregon Liquor Control Commission to discipline licensees of commission. Subject to the applicable provisions of ORS chapter 183, if an applicant or licensee violates a provision of ORS 475B.550 to 475B.590 or a rule adopted under a provision of ORS 475B.550 to 475B.590, the Oregon Liquor Control Commission may refuse to issue or renew, or may

suspend or revoke, a license issued under ORS 475B.070, 475B.090, 475B.100 or 475B.105. [2015 c.614 §96]

475B.577 Authority of Oregon Liquor Control Commission over certain persons, license actions. (1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS 475B.560, the Oregon Liquor Control Commission may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or

(b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under ORS 475B.010 to 475B.545, the applicant for licensure may not withdraw the applicant's application. [2017 c.183 §15]

475B.580 Authority of Oregon Health Authority to discipline registrants of authority. Subject to the applicable provisions of ORS chapter 183, if a person violates a provision of ORS 475B.550 to 475B.590 or a rule adopted under a provision of ORS 475B.550 to 475B.590, the Oregon Health Authority may:

(1) Refuse to register the person under ORS 475B.785 to 475B.949;

(2) Suspend activities conducted by a registrant pursuant to ORS 475B.785 to 475B.949; or

(3) Remove a registrant from a registry kept pursuant to ORS 475B.785 to 475B.949. [2015 c.614 §97]

475B.585 Civil penalty for violating ORS 475B.550 to 475B.590. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475B.550 to 475B.590, or a rule adopted under a provision of ORS 475B.550 to 475B.590, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475B.550 to 475B.590. [2015 c.614 §98]

475B.590 Exemption from criminal liability. A person who holds a license under ORS 475B.560, and an employee of or other person who performs work for a person who holds a license under ORS 475B.560, are ex-

empt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, while performing activities related to testing as described in ORS 475B.550 to 475B.590. [2015 c.614 §99]

PACKAGING, LABELING AND DOSAGE OF CANNABIS AND CANNABIS PRODUCTS

475B.600 Definitions for ORS 475B.600 to 475B.655. As used in ORS 475B.600 to 475B.655:

(1) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(2) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.

(3) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.

(4)(a) "Cannabinoid product" means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.

(b) "Cannabinoid product" does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate or extract by itself; or

(C) Industrial hemp, as defined in ORS 571.300.

(5)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(6) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(7) "Processing" means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(8) "Producing" means:

(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

(b) Drying marijuana leaves and flowers.

(9)(a) “Usable marijuana” means the dried leaves and flowers of marijuana.

(b) “Usable marijuana” does not include:

(A) The seeds, stalks and roots of marijuana; or

(B) Waste material that is a by-product of producing or processing marijuana. [2015 c.614 §100]

475B.605 Labeling requirements; rules.

(1) As is necessary to protect the public health and safety, and in consultation with the Oregon Health Authority and the State Department of Agriculture, the Oregon Liquor Control Commission shall adopt rules establishing standards for the labeling of marijuana items, including but not limited to:

(a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles and other cannabinoid products have labeling that communicates:

(A) Health and safety warnings;

(B) If applicable, activation time;

(C) Potency;

(D) For cannabinoid products and cannabinoid concentrates and extracts, serving size and the number of servings included in a cannabinoid product or cannabinoid concentrate or extract package; and

(E) Content of the marijuana item; and

(b) Labeling that is in accordance with applicable state food labeling requirements for the same type of food product or potable liquid when the food product or potable liquid does not contain marijuana or cannabinoids.

(2) In adopting rules under ORS 475B.785 to 475B.949, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475B.858 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under ORS 475B.010 to 475B.545, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license issued under ORS 475B.105 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(4) In adopting rules under subsection (1) of this section, the commission:

(a) May establish different labeling standards for different varieties of usable marijuana and for different types of

cannabinoid products and cannabinoid concentrates and extracts;

(b) May establish different minimum labeling standards for persons registered under ORS 475B.785 to 475B.949 and persons licensed under ORS 475B.010 to 475B.545;

(c) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate consumer of the marijuana item; and

(d) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2015 c.614 §101; 2017 c.183 §33]

475B.610 Authority to require preapproval of labels. (1) As used in this section:

(a) “Licensee” has the meaning given that term in ORS 475B.015.

(b) “Registrant” means a person registered under ORS 475B.785 to 475B.949.

(2) The Oregon Liquor Control Commission may by rule require a licensee, and the Oregon Health Authority may by rule require a registrant, to submit a label intended for use on a marijuana item for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item bearing the label. The commission shall determine whether a label submitted under this section complies with ORS 475B.605 and any rule adopted under ORS 475B.605.

(3) The commission may impose a fee for submitting a label for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section. [2015 c.614 §102]

475B.615 Packaging requirements; rules. (1) As is necessary to protect the

public health and safety, and in consultation with the Oregon Health Authority and the State Department of Agriculture, the Oregon Liquor Control Commission shall adopt rules establishing standards for the packaging of marijuana items, including but not limited to:

(a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles and other cannabinoid products are:

(A) Packaged in child-resistant safety packaging; and

(B) Not marketed in a manner that:

(i) Is untruthful or misleading;

(ii) Is attractive to minors; or

(iii) Otherwise creates a significant risk of harm to public health and safety; and

(b) Ensuring that cannabinoid edibles and other cannabinoid products are not packaged in a manner that is attractive to minors.

(2) In adopting rules under ORS 475B.785 to 475B.949, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475B.858 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under ORS 475B.010 to 475B.545, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under ORS 475B.105 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(4) In adopting rules under subsection (1) of this section the commission:

(a) May establish different packaging standards for different varieties of usable marijuana and for different types of cannabinoid products and cannabinoid concentrates and extracts;

(b) May establish different minimum packaging standards for persons registered under ORS 475B.785 to 475B.949 and persons licensed under ORS 475B.010 to 475B.545;

(c) May consider the effect on the environment of requiring certain packaging;

(d) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate consumer of the marijuana item; and

(e) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2015 c.614 §103]

475B.620 Authority to require preapproval of packaging. (1) As used in this section:

(a) “Licensee” has the meaning given that term in ORS 475B.015.

(b) “Registrant” means a person registered under ORS 475B.785 to 475B.949.

(2) The Oregon Liquor Control Commission may by rule require a licensee, and the Oregon Health Authority may by rule require a registrant, to submit packaging intended for a marijuana item for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item packaged in the packaging. The commission shall determine whether packaging submitted under this section complies with ORS 475B.615 and any rule adopted under ORS 475B.615.

(3) The commission may impose a fee for submitting packaging for preapproval under

this section that is reasonably calculated to not exceed the cost of administering this section. [2015 c.614 §104]

475B.625 Dosage requirements; rules.

(1) The Oregon Health Authority shall adopt rules establishing:

(a) The maximum concentration of tetrahydrocannabinol that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract; and

(b) The number of servings that are permitted in a cannabinoid product or cannabinoid concentrate or extract package.

(2)(a) In adopting rules under subsection (1)(a) of this section, the authority shall prescribe the different levels of concentration of tetrahydrocannabinol that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract for:

(A) Consumers who hold a valid registry identification card issued under ORS 475B.797; and

(B) Consumers who do not hold a valid registry identification card issued under ORS 475B.797.

(b) In prescribing the levels of concentration of tetrahydrocannabinol that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract for consumers who hold a valid registry identification card issued under ORS 475B.797, the authority shall consider the appropriate level of concentration necessary to mitigate the symptoms or effects of a debilitating medical condition, as defined in ORS 475B.791.

(3) In adopting rules under ORS 475B.785 to 475B.949, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475B.858 to meet the concentration standards and packaging standards adopted by rule pursuant to this section.

(4) In adopting rules under ORS 475B.010 to 475B.545, the Oregon Liquor Control Commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under ORS 475B.105 to meet the concentration standards and packaging standards adopted by rule pursuant to this section. [2015 c.614 §105; 2016 c.83 §15]

475B.630 Applicability of ORS 475B.600 to 475B.655. ORS 475B.600 to 475B.655 do not apply to:

(1) A person responsible for a marijuana grow site under ORS 475B.810 if the person is transferring usable marijuana or an im-

mature marijuana plant, as defined in ORS 475B.015, to:

(a) A person who holds a registry identification card under ORS 475B.797 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(b) A person who has been designated as the primary caregiver under ORS 475B.804 of a person who holds a registry identification card under ORS 475B.797, and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(2) A person who has been designated as the primary caregiver under ORS 475B.804 of a person who holds a registry identification card under ORS 475B.797 if the person is transferring a marijuana item to the person who holds a registry identification card. [2015 c.614 §106]

475B.635 Authority of Oregon Liquor Control Commission to inspect. To ensure compliance with ORS 475B.600 to 475B.655 and any rule adopted under ORS 475B.600 to 475B.655, the Oregon Liquor Control Commission may inspect the premises of a person that holds a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105. [2015 c.614 §108]

475B.640 Authority of Oregon Health Authority to inspect. To ensure compliance with ORS 475B.600 to 475B.655 and any rule adopted under ORS 475B.600 to 475B.655, the Oregon Health Authority may inspect the premises of:

(1) A medical marijuana dispensary registered under ORS 475B.858; and

(2) A person that processes marijuana to test cannabinoid products or cannabinoid concentrates or extracts for the purpose of transferring the cannabinoid products or cannabinoid concentrates or extracts to a medical marijuana dispensary registered under ORS 475B.858. [2015 c.614 §107]

475B.645 Authority of Oregon Liquor Control Commission to discipline licensees of commission. Subject to the applicable provisions of ORS chapter 183, if the applicant or licensee violates a provision of ORS 475B.600 to 475B.655 or a rule adopted under a provision of ORS 475B.600 to 475B.655, the Oregon Liquor Control Commission may refuse to issue or renew, or may suspend or revoke, a license issued under ORS 475B.070, 475B.090, 475B.100 or 475B.105. [2015 c.614 §110]

475B.650 Authority of Oregon Health Authority to discipline registrants of authority. Subject to the applicable provisions of ORS chapter 183, if a person violates a provision of ORS 475B.600 to 475B.655 or a rule adopted under a provision of ORS 475B.600 to 475B.655, the Oregon Health Authority may:

(1) Refuse to register a person under ORS 475B.785 to 475B.949;

(2) Suspend activities conducted by a registrant pursuant to ORS 475B.785 to 475B.949; or

(3) Remove a registrant from a registry kept pursuant to ORS 475B.785 to 475B.949. [2015 c.614 §109]

475B.655 Civil penalty for violating ORS 475B.600 to 475B.655. (1) In addition to any other liability or penalty provided by law, the Oregon Liquor Control Commission may impose for each violation of a provision of ORS 475B.600 to 475B.655, or a rule adopted under a provision of ORS 475B.600 to 475B.655, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The commission shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296 and are continuously appropriated to the commission for the purpose of carrying out the duties, functions and powers of the authority under ORS 475B.600 to 475B.655. [2015 c.614 §111; 2017 c.183 §34]

TAXATION OF CANNABIS AND CANNABIS PRODUCTS

475B.700 Definitions for ORS 475B.700 to 475B.760. 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,” “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. [2015 c.699 §1; 2017 c.495 §3]

475B.705 Imposition of tax on retail sale of marijuana items. (1) A tax is hereby imposed upon the retail sale of marijuana items in this state. The tax imposed by this section is a direct tax on the consumer, for which payment upon retail sale is required. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs.

(2) The tax imposed under this section shall be imposed at the rate of:

(a) 17 percent of the retail sales price of marijuana leaves;

(b) 17 percent of the retail sales price of marijuana flowers;

(c) 17 percent of the retail sales price of immature marijuana plants;

(d) 17 percent of the retail sales price of a cannabinoid edible;

(e) 17 percent of the retail sales price of a cannabinoid concentrate;

(f) 17 percent of the retail sales price of a cannabinoid extract;

(g) 17 percent of the retail sales price of a cannabinoid product that is intended to be used by applying the cannabinoid product to the skin or hair; and

(h) 17 percent of the retail sales price of cannabinoid products other than those described in paragraph (g) of this subsection.

(3) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.

(4) Except as otherwise provided by the Department of Revenue by rule, the amount of the tax shall be separately stated on an invoice, receipt or other similar document that the marijuana retailer provides to the consumer at the time at which the retail sale occurs.

(5) A person may not knowingly sell, purchase, install, transfer or possess electronic devices or software programs for the purposes of:

(a) Hiding or removing records of retail sales of marijuana items; or

(b) Falsifying records of retail sales of marijuana items.

(6)(a) A marijuana retailer may not discount a marijuana item or offer a marijuana item for free if the retail sale of the marijuana item is made in conjunction with the retail sale of any other item.

(b) Paragraph (a) of this subsection does not affect any provision of ORS 475B.010 to 475B.545 or any rule adopted by the Oregon Liquor Control Commission pursuant to ORS

475B.010 to 475B.545 that is related to the retail sale of marijuana items. [2015 c.699 §2; 2016 c.91 §6]

475B.707 Exemption from tax on retail sale of marijuana items; rules. (1) As used in this section, “designated primary caregiver,” “registry identification card” and “registry identification cardholder” have the meanings given those terms in ORS 475B.791.

(2) Notwithstanding ORS 475B.705:

(a) A tax is not imposed upon the retail sale of marijuana items in this state to a registry identification cardholder or to a designated primary caregiver who is purchasing a marijuana item for a registry identification cardholder; and

(b) A marijuana retailer may not collect the tax imposed under ORS 475B.705 from a consumer if, at the time at which the retail sale of the marijuana item occurs, the consumer provides proof to the marijuana retailer that the consumer:

(A) Holds a valid registry identification card under ORS 475B.797; or

(B) Holds a valid identification card under ORS 475B.797 (5)(b) and is purchasing the marijuana item for a registry identification cardholder.

(3) The Department of Revenue:

(a) Shall adopt rules establishing procedures by which a marijuana retailer shall document that a consumer holds a valid registry identification card issued under ORS 475B.797 or a valid identification card issued under ORS 475B.797 (5)(b); and

(b) May adopt rules establishing procedures by which the department may verify that a marijuana retailer collects the tax imposed under ORS 475B.705 from consumers of marijuana items who are not registry identification cardholders or designated primary caregivers. [2016 c.91 §2]

475B.710 Collection of tax; refund; credit; penalties. (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 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. [2015 c.699 §3; 2016 c.91 §7; 2017 c.278 §24; 2017 c.495 §4]

475B.712 Marijuana revenue estimate.

(1) Not later than 30 days before the beginning of each calendar quarter, the Oregon Department of Administrative Services shall forecast and prepare an estimate of the revenue that will be received during the remainder of the current biennium and subsequent three biennia pursuant to the tax imposed under ORS 475B.705. The estimate may be made on the basis of all pertinent information available to the Oregon Department of Administrative Services. Upon making the estimate, the Oregon Department of Administrative Services shall report the estimate to the Legislative Revenue Officer, the

Legislative Fiscal Officer and the Department of Revenue.

(2) The Department of Revenue and the Oregon Liquor Control Commission shall provide the Oregon Department of Administrative Services with any information necessary for the Oregon Department of Administrative Services to perform its duties under this section. [2017 c.725 §31]

475B.715 Enforcement; liability; notice of liability; notices of determination and assessment. (1) Every person who collects any amount under ORS 475B.710 shall hold the same in trust for the State of Oregon and for the payment thereof to the Department of Revenue in the manner and at the time provided in ORS 475B.710.

(2) At any time a marijuana retailer fails to remit any amount collected, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. The warrant shall be issued, recorded and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

(3)(a) In the case of a marijuana retailer that is assessed pursuant to the provisions of ORS 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer, employee or member of the marijuana retailer within three years from the time of assessment. Within 30 days from the date the notice of liability is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the liability and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of liability within 30 days after the notice of

liability was mailed, the notice of liability becomes final. In that event, the officer, employee or member may appeal the notice of liability to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(4)(a) In the case of a failure to file a return on the due date, governed by the provisions of ORS 305.265 (10) and 314.400, the department, in addition to any action described in the provisions of ORS 305.265 (10) and 314.400, may send notices of determination and assessment to any officer, employee or member any time within three years after the assessment. The time of assessment against the officer, employee or member is 30 days after the date the notice of determination and assessment is mailed. Within 30 days from the date the notice of determination and assessment is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the assessment and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of determination and assessment within 30 days after the notice of determination and assessment was mailed, the notice of determination and assessment becomes final. In that event, the officer, employee or member may appeal the notice of determination and assessment to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(5)(a) More than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes.

(b) Notwithstanding the confidentiality provisions of ORS 475B.755, if more than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes, the department may require any or all of the officers, members or employees who may be held liable to appear before the

department for a joint determination of liability. The department shall notify each officer, member or employee of the time and place set for the determination of liability.

(c) Each person notified of a joint determination under this subsection shall appear and present such information as is necessary to establish that person's liability or nonliability for payment of taxes to the department. If a person who was notified fails to appear, the department shall make its determination on the basis of all the information and evidence presented. The department's determination is binding on all persons notified and required to appear under this subsection.

(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to ORS 475B.755 by any person determined to be liable for unpaid taxes under this subsection, each person required to appear before the department under this subsection shall be impleaded by the plaintiff. The department may implead any officer, employee or member who may be held jointly and severally liable for the payment of taxes. Each person impleaded under this paragraph shall be made a party to the action before the tax court and shall make available to the tax court the information that was presented before the department, as well as other information that may be presented to the court.

(B) The court may determine that one or more persons impleaded under this paragraph are liable for unpaid taxes without regard to any earlier determination by the department that an impleaded person was not liable for unpaid taxes.

(C) If a person required to appear before the court under this subsection fails or refuses to appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court, the court shall make its determination on the basis of all the evidence introduced. Notwithstanding ORS 475B.755, the evidence constitutes a public record and shall be available to the parties and the court. The determination of the tax court is binding on all persons made parties to the action under this subsection.

(e) This section may not be construed to preclude a determination by the department or the Oregon Tax Court that more than one officer, employee or member are jointly and severally liable for unpaid taxes. [2015 c.699 §4]

475B.720 Duty to keep receipts, invoices and other records. (1) A marijuana retailer shall keep receipts, invoices and other pertinent records related to retail sales of marijuana items in the form required by the Department of Revenue. Each record shall be preserved for five years from the

time to which the record relates, or for as long as the marijuana retailer retains the marijuana items to which the record relates, whichever is later. During the retention period and at any time prior to the destruction of records, the department may give written notice to the marijuana retailer not to destroy records described in the notice without written permission of the department. Notwithstanding any other provision of law, the department shall preserve reports and returns filed with the department for at least five years.

(2) The department or its authorized representative, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of marijuana items and any other investigations as the department deems necessary to carry out the provisions of ORS 475B.700 to 475B.760. [2015 c.699 §5]

475B.725 Authority to require production of books, papers, accounts and other information. (1) The Department of Revenue has authority, by order or subpoena to be served with the same force and effect and in the same manner as a subpoena is served in a civil action in the circuit court, or the Oregon Tax Court, to require the production at any time and place the department designates of any books, papers, accounts or other information necessary to carry out ORS 475B.700 to 475B.760. The department may require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for the information, with power to administer oaths to the person.

(2) If a person fails to comply with a subpoena or order of the department or to produce or permit the examination or inspection of any books, papers, records and equipment pertinent to an investigation or inquiry under ORS 475B.700 to 475B.760, or to testify to any matter regarding which the person is lawfully interrogated, the department may apply to the Oregon Tax Court or to the circuit court of the county in which the person resides or where the person is for an order to the person to attend and testify, or otherwise to comply with the demand or request of the department. The department shall apply to the court by ex parte motion, upon which the court shall make an order requiring the person against whom the motion is directed to comply with the request or demand of the department within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order shall be served upon the person to whom it is directed in the manner required by this state for service of process, which service is

required to confer jurisdiction upon the court. Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, existing under the tax laws or other laws of this state. [2015 c.699 §6]

475B.730 Disclosure of information. (1) Notwithstanding the confidentiality provisions of ORS 475B.755, the Department of Revenue may disclose information received under ORS 317.363 and 475B.700 to 475B.760 to:

(a) The Oregon Liquor Control Commission to carry out the provisions of ORS 475B.010 to 475B.545 and 475B.700 to 475B.760; and

(b) The Oregon Health Authority to carry out the provisions of ORS 475B.707.

(2) The commission may disclose information obtained pursuant to ORS 475B.010 to 475B.545 and 475B.700 to 475B.760 to the department for the purpose of carrying out the provisions of ORS 475B.010 to 475B.545 and 475B.700 to 475B.760.

(3) The authority may disclose information obtained pursuant to ORS 475B.797 or 475B.804 to the department for the purpose of carrying out the provisions of ORS 475B.707, provided that the authority does not disclose personally identifiable information. [2015 c.699 §7(1),(2); 2016 c.91 §4]

475B.735 Right to appeal determination of tax liability. Except as otherwise provided in ORS 475B.010 to 475B.545 and 475B.700 to 475B.760, a person aggrieved by an act or determination of the Department of Revenue or its authorized agent under ORS 317.363 and 475B.700 to 475B.760 may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person's liability for the tax imposed under ORS 475B.700 to 475B.760. [2015 c.699 §7(3)]

475B.740 Duty to return excess tax collected. (1)(a) When an amount represented by a marijuana retailer at retail to a consumer as constituting the tax imposed under ORS 475B.700 to 475B.760 is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the consumer to the marijuana retailer, the excess tax paid shall be returned by the marijuana retailer to the consumer upon written notification by the Department of Revenue or the consumer.

(b) The written notification must contain information necessary to determine the validity of the consumer's claim.

(2) If the marijuana retailer does not return the excess tax within 60 days after mailing of the written notification required under subsection (1) of this section, the consumer may appeal to the department for a refund of the amount of the excess tax, in the manner and within the time allowed under rules adopted by the department.

(3) If excess tax is returned to the consumer by the department, the department may issue a notice of deficiency for the excess tax to the marijuana retailer in the manner provided under ORS 305.265. [2015 c.699 §9]

475B.745 Authority to retain portion of tax to pay expenses incurred. For the purpose of compensating marijuana retailers for expenses incurred in collecting the tax imposed under ORS 475B.705, each marijuana retailer is permitted to deduct and retain two percent of the amount of taxes that are collected by the marijuana retailer from all retail sales of marijuana items conducted by the marijuana retailer. [2015 c.699 §13]

475B.750 Duties and powers of Department of Revenue; rules; interagency cooperation. (1) The Department of Revenue shall administer and enforce ORS 475B.700 to 475B.760. The department is authorized to establish rules and procedures for the implementation and enforcement of ORS 475B.700 to 475B.760 that are consistent with ORS 475B.700 to 475B.760 and that the department considers necessary and appropriate to administer and enforce ORS 475B.700 to 475B.760.

(2) The Oregon Liquor Control Commission shall enter into an agreement with the department for the purpose of administering and enforcing those provisions of ORS 475B.700 to 475B.760, and rules or procedures established for the purpose of implementing and enforcing ORS 475B.700 to 475B.760, that the commission and the department determine are necessary for the effective and efficient administration, implementation and enforcement of ORS 475B.700 to 475B.760.

(3) The Oregon Health Authority shall enter into an agreement with the department for the purpose of administering and enforcing the provisions of ORS 475B.707, and rules or procedures established for the purpose of implementing and enforcing ORS 475B.707, that the authority and the department determine are necessary for the effective and efficient administration, implementation and enforcement of ORS 475B.707. [2015 c.699 §8; 2016 c.91 §5]

475B.752 Department of Revenue tax rebate agreement with qualified Indian tribe. (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 ORS 475B.543.

(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.105 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 ORS 475B.543, 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.105 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 ORS 475B.543, 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 ORS 475B.543, 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 ORS 475B.543, 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. [2017 c.495 §2]

475B.755 Applicability of tax laws to ORS 475B.700 to 475B.760. Except as otherwise provided in ORS 475B.700 to 475B.760 or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto, apply to the determinations of taxes, penalties and interest under ORS 475B.700 to 475B.760. [2015 c.699 §10]

475B.759 Oregon Marijuana Account.

(1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under ORS 475B.760.

(3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Marijuana Account.

(b) Subject to subsection (4) of this section, the department shall transfer quarterly 20 percent of the moneys in the Oregon Marijuana Account as follows:

(A) Ten percent of the moneys in the account must be transferred to the cities of this state in the following shares:

(i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the population of each city of this state that is not exempt from this paragraph pursuant to subsection (4)(a) of this section compared to the population of all cities of this state that are not exempt from this paragraph pursuant to subsection (4)(a) of this section, as determined by Portland State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer; and

(ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each city compared to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state located in cities; and

(B) Ten percent of the moneys in the account must be transferred to counties in the following shares:

(i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer for all premises located in each county compared to the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of that calendar quarter for all premises located in this state; and

(ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each county compared to the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state.

(c) Eighty percent of the moneys in the Oregon Marijuana Account must be used as follows:

(A) Forty percent of the moneys in the account must be used solely for purposes for which moneys in the State School Fund established under ORS 327.008 may be used;

(B) Twenty percent of the moneys in the account must be used solely for purposes for which moneys in the Mental Health Alcoholism and Drug Services Account established under ORS 430.380 may be used;

(C) Fifteen percent of the moneys in the account must be used solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used; and

(D) Five percent of the moneys in the account must be used solely for purposes related to alcohol and drug abuse prevention, early intervention and treatment services.

(4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section.

(b) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(i) of this section.

(c) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(ii) of this section.

(5) In a form and manner prescribed by the Oregon Liquor Control Commission, each city and county in this state shall certify with the commission whether the city or county has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required. If a city fails to comply with this subsection, the city is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section. If a county fails to comply with this subsection, the county is not eligible to receive transfers of moneys under subsection (3)(b)(B) of this section. [2015 c.1 §44; 2015 c.699 §14; 2015 c.767 §219; 2017 c.725 §32]

475B.760 Suspense account; payment of expenses; crediting balance to Oregon Marijuana Account. (1) All moneys received by the Department of Revenue under ORS 475B.700 to 475B.760 shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of ORS 475B.700 to 475B.760 out of moneys received from the tax imposed under ORS 475B.705. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the department shall credit the balance of the moneys received by the department under this section to the Oregon Marijuana Account established under ORS 475B.759. [2015 c.699 §11; 2016 c.24 §70]

FINANCIAL INSTITUTIONS

475B.763 Definitions for ORS 475B.763 to 475B.778. As used in ORS 475B.763 to 475B.778:

(1) “Deliver” has the meaning given that term in ORS 475.005.

(2) “Financial institution” means:

(a) A financial institution as defined in ORS 706.008.

(b) A trust company as defined in ORS 706.008.

(c) A money transmission business licensed under ORS 717.200 to 717.320, 717.900 and 717.905.

(d) An affiliate of an entity described in paragraph (a), (b) or (c) of this subsection.

(e) An employee or agent of an entity described in paragraph (a), (b) or (c) of this subsection.

(3) “Manufacture” has the meaning given that term in ORS 475.005.

(4) “Marijuana” has the meaning given that term in ORS 475.005.

(5) “Marijuana-derived product” means cannabinoid products, cannabinoid concentrates and cannabinoid extracts, all as defined in ORS 475B.015. [2016 c.97 §1]

Note: Amendments to 475.005 by section 22, chapter 21, Oregon Laws 2017, deleted the definition of marijuana. The text of 475B.763 was not amended by enactment of the Legislative Assembly to reflect the deletion. Editorial adjustment of 475B.763 for the deletion of the definition of marijuana has not been made.

475B.766 Financial institution exempt from certain criminal laws. A financial institution that provides financial services customarily provided by financial institutions pursuant to powers granted by ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act or by ORS chapter 723 to a marijuana processing site registered under ORS 475B.840, a medical marijuana dispensary registered under ORS 475B.858, a marijuana producer that holds a license under ORS 475B.070, a marijuana processor that holds a license under ORS 475B.090, a marijuana wholesaler that holds a license under ORS 475B.100, a marijuana retailer that holds a license under ORS 475B.105, a laboratory that holds a license under ORS 475B.560 or a person to whom a permit has been issued under ORS 475B.266 is exempt from any criminal law of this state an element of which may be proven by substantiating that a person provides financial services customarily provided by financial institutions pursuant to powers granted by ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act or ORS chapter 723 to a person who possesses, delivers or manufactures marijuana or marijuana derived products. [2016 c.97 §2]

475B.769 Required disclosure by Oregon Liquor Control Commission; fees. (1) Notwithstanding any law relating to the exemption of information from public disclosure under ORS 475B.010 to 475B.545 or 475B.550 to 475B.590, upon the request of a financial institution, the Oregon Liquor Control Commission shall provide to the financial institution the following information:

(a) Whether a person with whom the financial institution is doing business holds a license under ORS 475B.070, 475B.090, 475B.100, 475B.105 or 475B.560 or a permit under ORS 475B.266;

(b) The name of any other business or individual affiliated with the person;

(c) A copy of the application, and any supporting documentation submitted with the application, for a license or a permit submitted by the person;

(d) If applicable, data relating to sales and the volume of product sold by the person;

(e) Whether the person is currently compliant with the provisions of ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted under ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655;

(f) Any past or pending violation by the person of a provision of ORS 475B.010 to 475B.545, 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.010 to 475B.545, 475B.550 to 475B.590 or 475B.600 to 475B.655; and

(g) Any penalty imposed upon the person for violating a provision of ORS 475B.010 to 475B.545, 475B.550 to 475B.590 or 475B.600 to 475B.655 or a rule adopted under ORS 475B.010 to 475B.545, 475B.550 to 475B.590 or 475B.600 to 475B.655.

(2) Upon receiving a request under subsection (1) of this section, the commission shall provide the requesting financial institution with the requested information.

(3) The commission may charge a financial institution a reasonable fee to cover the administrative costs of providing information under this section. [2016 c.97 §3]

475B.772 Required disclosure by Oregon Health Authority; fees. (1) Notwithstanding any law relating to the exemption of information from public disclosure under ORS 475B.785 to 475B.949, upon the request of a financial institution, the Oregon Health Authority shall provide to the financial institution the following information:

(a) Whether a person with whom the financial institution is doing business is registered under ORS 475B.840 or 475B.858;

(b) The name of any other business or individual affiliated with the person;

(c) A copy of the application, and any supporting documentation submitted with that application, for registration submitted by the person;

(d) Data relating to the volume of product transferred by the person;

(e) Whether the person is currently compliant with the provisions of ORS 475B.550 to 475B.590, 475B.600 to 475B.655 and 475B.785 to 475B.949 and rules adopted under ORS 475B.550 to 475B.590, 475B.600 to 475B.655 and 475B.785 to 475B.949;

(f) Any past or pending violation by the person of a provision of ORS 475B.550 to

475B.590, 475B.600 to 475B.655 or 475B.785 to 475B.949 or a rule adopted under ORS 475B.550 to 475B.590, 475B.600 to 475B.655 or 475B.785 to 475B.949; and

(g) Any penalty imposed upon the person for violating a provision of ORS 475B.550 to 475B.590, 475B.600 to 475B.655 or 475B.785 to 475B.949 or a rule adopted under ORS 475B.550 to 475B.590, 475B.600 to 475B.655 or 475B.785 to 475B.949.

(2) Upon receiving a request under subsection (1) of this section, the authority shall provide the requesting financial institution with the requested information.

(3) The authority may charge a financial institution a reasonable fee to cover the administrative costs of providing information under this section. [2016 c.97 §4]

475B.775 Required disclosure by Department of Revenue; fees. (1) Notwithstanding any law relating to the exemption of information from public disclosure under ORS 475B.700 to 475B.760, or relating to the confidentiality of tax return information, upon the request of a financial institution, the Department of Revenue shall provide to the financial institution the following information:

(a) Whether the person is currently compliant with the provisions of ORS 475B.700 to 475B.760 and rules adopted under ORS 475B.700 to 475B.760;

(b) Any past or pending violation by the person of a provision of ORS 475B.700 to 475B.760 or a rule adopted under ORS 475B.700 to 475B.760; and

(c) Any penalty imposed upon the person for violating a provision of ORS 475B.700 to 475B.760 or a rule adopted under ORS 475B.700 to 475B.760.

(2) Upon receiving a request under subsection (1) of this section, the department shall provide the requesting financial institution with the requested information.

(3) The department may charge a financial institution a reasonable fee to cover the administrative costs of providing information under this section. [2016 c.97 §5]

475B.778 Confidentiality of information. Information received by a financial institution under ORS 475B.769, 475B.772 or 475B.775 is confidential for purposes of ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act and ORS chapter 723. Except as otherwise required or permitted by the provisions of ORS 192.583 to 192.607, 717.200 to 717.320, 717.900 and 717.905, or the Bank Act or ORS chapter 723, or by other state law or rule or federal law or regulation, a financial institution may not make the information available to any person other than:

(1) The customer to whom the information applies; and

(2) A trustee, conservator, guardian, personal representative or agent of the customer to whom the information applies. [2016 c.97 §6]

MEDICAL USE OF CANNABIS

(Generally)

475B.785 Findings. The people of the State of Oregon find that:

(1) Patients and doctors have found marijuana to be an effective treatment for suffering caused by debilitating medical conditions and, therefore, marijuana must be treated like other medicines;

(2) Oregonians suffering from debilitating medical conditions should be allowed to use marijuana without fear of civil or criminal penalties when a doctor advises that using marijuana may provide a medical benefit and when other reasonable restrictions are met regarding that use;

(3) ORS 475B.785 to 475B.949 are intended to allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to be able to freely discuss with doctors the possible risks and benefits associated with the medical use of marijuana and to have the benefit of professional medical advice; and

(4) ORS 475B.785 to 475B.949 are intended to protect patients and doctors from criminal and civil penalties and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. [Formerly 475B.400]

475B.788 Short title. ORS 475B.785 to 475B.949 shall be known as the Oregon Medical Marijuana Act. [Formerly 475B.405]

475B.791 Definitions for ORS 475B.785 to 475B.949. As used in ORS 475B.785 to 475B.949:

(1) “Attending physician” means a physician licensed under ORS chapter 677 who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(2) “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

(3) “Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by:

(a) A mechanical extraction process;

(b) A chemical extraction process using a nonhydrocarbon-based solvent, such as vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

(c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

(d) Any other process identified by the Oregon Health Authority, in consultation with the Oregon Liquor Control Commission, by rule.

(4) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried leaves or flowers of marijuana have been incorporated.

(5) “Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:

(a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;

(b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or

(c) Any other process identified by the Oregon Health Authority, in consultation with the Oregon Liquor Control Commission, by rule.

(6) “Debilitating medical condition” means:

(a) Cancer, glaucoma, a degenerative or pervasive neurological condition, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of those medical conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including seizures caused by epilepsy; or

(E) Persistent muscle spasms, including spasms caused by multiple sclerosis;

(c) Post-traumatic stress disorder; or

(d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the Oregon Health Authority by rule or approved by the authority pursuant to a petition filed under ORS 475B.946.

(7)(a) “Delivery” has the meaning given that term in ORS 475.005.

(b) “Delivery” does not include transfer of marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer.

(8)(a) “Designated primary caregiver” means an individual:

(A) Who is 18 years of age or older;

(B) Who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition; and

(C) Who is designated as the person responsible for managing the well-being of a person who has been diagnosed with a debilitating medical condition on that person’s application for a registry identification card or in other written notification submitted to the authority.

(b) “Designated primary caregiver” does not include a person’s attending physician.

(9) “High heat” means a temperature exceeding 180 degrees.

(10) “Immature marijuana plant” means a marijuana plant that is not flowering.

(11)(a) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300.

(12) “Marijuana grow site” means a location registered under ORS 475B.810 where marijuana is produced for use by a registry identification cardholder.

(13) “Marijuana processing site” means a marijuana processing site registered under ORS 475B.840 or a site for which an applicant has submitted an application for registration under ORS 475B.840.

(14) “Mature marijuana plant” means a marijuana plant that is not an immature marijuana plant.

(15)(a) “Medical cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to a person’s skin or hair, that contains cannabinoids or dried leaves or flowers of marijuana.

(b) “Medical cannabinoid product” does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate by itself;

(C) A cannabinoid extract by itself; or

(D) Industrial hemp, as defined in ORS 571.300.

(16) “Medical marijuana dispensary” means a medical marijuana dispensary registered under ORS 475B.858 or a site for which an applicant has submitted an application for registration under ORS 475B.858.

(17) “Medical use of marijuana” means the production, processing, possession, delivery or administration of marijuana, or use of paraphernalia used to administer marijuana, to mitigate the symptoms or effects of a debilitating medical condition.

(18) “Person designated to produce marijuana by a registry identification cardholder” means a person designated to produce marijuana by a registry identification cardholder under ORS 475B.810 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

(19) “Process” means the compounding or conversion of marijuana into medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

(20) “Production” means:

(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

(b) Drying marijuana leaves or flowers.

(21) “Registry identification card” means a document issued by the Oregon Health Authority under ORS 475B.797 that identifies a person authorized to engage in the medical use of marijuana and, if the person has a designated primary caregiver under ORS 475B.804, the person’s designated primary caregiver.

(22) “Registry identification cardholder” means a person to whom a registry identification card has been issued under ORS 475B.797.

(23)(a) “Usable marijuana” means the dried leaves and flowers of marijuana.

(b) “Usable marijuana” does not include:

(A) The seeds, stalks and roots of marijuana; or

(B) Waste material that is a by-product of producing marijuana.

(24) “Written documentation” means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person’s relevant medical records. [Formerly 475B.410]

475B.794 Construction of ORS 475B.785 to 475B.949. Nothing in ORS 475B.785 to 475B.949 requires:

(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or

(2) An employer to accommodate the medical use of marijuana in the workplace. [Formerly 475B.413]

475B.797 Registry identification cardholders; eligibility; fees; rules. (1) The Oregon Health Authority shall establish a program for the issuance of registry identification cards to applicants who meet the requirements of this section.

(2) The authority shall issue a registry identification card to an applicant who is 18 years of age or older if the applicant pays a fee in an amount established by the authority by rule and submits to the authority an application containing the following information:

(a) Written documentation from the applicant's attending physician stating that the attending physician has diagnosed the applicant as having a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;

(b) The name, address and date of birth of the applicant;

(c) The name, address and telephone number of the applicant's attending physician;

(d) Proof of residency, submitted in a form required by the authority by rule;

(e) The name and address of the applicant's designated primary caregiver, if the applicant is designating a primary caregiver under ORS 475B.804; and

(f) The information described in ORS 475B.810 (2), if the applicant is applying to produce marijuana or designate another person under ORS 475B.810 to produce marijuana.

(3)(a) The authority shall issue a registry identification card to an applicant who is under 18 years of age if:

(A) The applicant pays the fee and submits the application described in subsection (2) of this section; and

(B) The custodial parent or legal guardian who is responsible for the health care decisions of the applicant signs and submits to the authority a written statement that:

(i) The applicant's attending physician has explained to the applicant and to the custodial parent or legal guardian the possible risks and benefits of the medical use of marijuana;

(ii) The custodial parent or legal guardian consents to the medical use of marijuana by the applicant;

(iii) The custodial parent or legal guardian agrees to serve as the applicant's designated primary caregiver; and

(iv) The custodial parent or legal guardian agrees to control the acquisition, dosage

and frequency of the medical use of marijuana by the applicant.

(b) An applicant who is under 18 years of age may not apply to produce marijuana under subsection (2)(f) of this section.

(4) The authority shall:

(a) On the date on which the authority receives an application described in subsection (2) of this section, issue a receipt to the applicant verifying that the authority received an application under subsection (2) or (3) of this section; and

(b) Approve or deny an application received under subsection (2) or (3) of this section within 30 days after receiving the application.

(5)(a) If the authority approves an application, the authority shall issue a serially numbered registry identification card to the applicant within five days after approving the application. The registry identification card must include the following information:

(A) The registry identification cardholder's name, address and date of birth;

(B) The issuance date and expiration date of the registry identification card;

(C) If the registry identification cardholder designated a primary caregiver under ORS 475B.804, the name and address of the registry identification cardholder's designated primary caregiver; and

(D) Any other information required by the authority by rule.

(b) If the registry identification cardholder designated a primary caregiver under ORS 475B.804, the authority shall issue an identification card to the designated primary caregiver. The identification card must contain the information required by paragraph (a) of this subsection.

(6) A registry identification cardholder shall:

(a) In a form and manner prescribed by the authority, notify the authority of any change concerning the registry identification cardholder's:

(A) Name, address or attending physician;

(B) Designated primary caregiver, including the designation of a primary caregiver made at a time other than at the time of applying for or renewing a registry identification card; or

(C) Person responsible for a marijuana grow site, including the designation of a person responsible for a marijuana grow site made at a time other than at the time of applying for or renewing a registry identification card.

(b) Annually renew the registry identification card by paying a fee in an amount established by the authority by rule and submitting to the authority an application that contains the following information:

(A) Updated written documentation from the registry identification cardholder's attending physician stating that the registry identification cardholder still has a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the registry identification cardholder's debilitating medical condition;

(B) The information described in subsection (2)(b) to (f) of this section; and

(C) If the registry identification cardholder is under 18 years of age, a statement signed by the custodial parent or legal guardian of the registry identification cardholder that meets the requirements of subsection (3) of this section.

(7) The authority shall:

(a) On the date on which the authority receives an application described in subsection (2) of this section, issue a receipt to the applicant verifying that the authority received an application under subsection (6)(b) of this section; and

(b) Approve or deny an application received under subsection (6)(b) of this section within 30 days after receiving the application.

(8)(a) If the registry identification cardholder's attending physician determines that the registry identification cardholder no longer has a debilitating medical condition, or determines that the medical use of marijuana is contraindicated for the registry identification cardholder's debilitating medical condition, the registry identification cardholder shall return the registry identification card to the authority within 30 calendar days after receiving notice of the determination.

(b) If, because of circumstances beyond the control of the registry identification cardholder, a registry identification cardholder is unable to obtain a second medical opinion about the registry identification cardholder's continuing eligibility for the medical use of marijuana before having to return the registry identification card to the authority, the authority may grant the registry identification cardholder additional time to obtain a second medical opinion.

(9)(a) The authority may deny an application for a registry identification card or an application to renew a registry identification card, or may suspend or revoke a registry identification card, if:

(A) The applicant or registry identification cardholder does not provide the information required by this section;

(B) The authority determines that the applicant or registry identification cardholder provided false information; or

(C) The authority determines that the applicant or registry identification cardholder violated a provision of ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to 475B.949.

(b) If a registry identification card is revoked, any associated identification card issued under subsection (5)(b) of this section, or marijuana grow site registration card issued under ORS 475B.810 (6), shall also be revoked.

(c) A person whose application is denied, or whose registry identification card is revoked, under this subsection may not reapply for a registry identification card for six months from the date of the denial or revocation unless otherwise authorized by the authority.

(10)(a) The authority may deny a designation of a primary caregiver made under ORS 475B.804, or suspend or revoke an associated identification card issued under subsection (5)(b) of this section, if the authority determines that the designee or the registry identification cardholder violated a provision of ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to 475B.949.

(b) A person whose designation has been denied, or whose identification card has been revoked, under this subsection may not be designated as a primary caregiver under ORS 475B.804 for six months from the date of the denial or revocation unless otherwise authorized by the authority.

(11)(a) Notwithstanding subsection (2) or (6)(b) of this section, if an applicant for a registry identification card, or a registry identification cardholder applying for renewal of a registry identification card, submits to the authority proof of having served in the Armed Forces of the United States, the authority may not impose a fee that is greater than \$20 for the issuance or renewal of the registry identification card.

(b) Notwithstanding subsection (6)(b)(A) of this section, the requirement that a registry identification cardholder include in the application to renew a registry identification card updated written documentation from the cardholder's attending physician regarding the cardholder's continuing debilitating medical condition does not apply to a service-disabled veteran who:

(A) Has been assigned a total and permanent disability rating for compensation that rates the veteran as unable to secure or

follow a substantially gainful occupation as a result of service-connected disabilities as described in 38 C.F.R. 4.16; or

(B) Has a United States Department of Veterans Affairs total disability rating of 100 percent as a result of an injury or illness that the veteran incurred, or that was aggravated, during active military service and who received a discharge or release under other than dishonorable conditions.

(12) For any purpose described in ORS 475B.785 to 475B.949, including exemption from criminal liability under ORS 475B.907, a receipt issued by the authority verifying that an application has been submitted to the authority under subsection (2), (3) or (6)(b) of this section has the same legal effect as a registry identification card for 30 days following the date on which the receipt was issued to the applicant. [Formerly 475B.415]

475B.800 [2015 c.614 §134; 2016 c.24 §31; 2017 c.183 §28; renumbered 475B.968 in 2017]

475B.801 Assistance from designated primary caregiver. A designated primary caregiver may assist the designating registry identification cardholder with any matter related to the medical use of marijuana, including:

(1) The production of marijuana at the address provided by the registry identification cardholder to the Oregon Health Authority pursuant to ORS 475B.797 (2)(f); and

(2) The processing of marijuana into cannabinoid concentrates or medical cannabinoid products. [2017 c.613 §10]

475B.804 Designated primary caregivers. (1) If a person who is applying for a registry identification card under ORS 475B.797, or who is a registry identification cardholder, chooses to designate, or to change the designation of, a primary caregiver, the person must include the primary caregiver's name and address:

(a) On the person's application for a registry identification card;

(b) On the person's application to renew a registry identification card; or

(c) In a form and manner prescribed by the authority, in a signed statement notifying the Oregon Health Authority of the designation.

(2) A registry identification cardholder may have only one designated primary caregiver at any given time.

(3) If a registry identification cardholder who previously designated a primary caregiver chooses to designate a different primary caregiver, the authority shall notify the previous designee of the new designation and issue an identification card to the newly

designated primary caregiver. [Formerly 475B.418]

475B.807 Authority to designate certain organizations as primary caregivers.

(1) Notwithstanding ORS 475B.804, an organization that provides hospice, palliative or home health care services, or a residential facility as defined in ORS 443.400, that has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition may be designated, in addition to an individual designated pursuant to ORS 475B.804, as an additional caregiver for a registry identification cardholder in the same manner that an individual is designated as the primary caregiver for a registry identification cardholder under ORS 475B.804.

(2) An organization or residential facility that is designated under this section has all the duties, functions and powers of a designated primary caregiver as prescribed by ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to 475B.949. [Formerly 475B.419]

(Marijuana Grow Sites)

475B.810 Marijuana grow site registration system; fees; rules. (1)(a) The Oregon Health Authority shall establish by rule a marijuana grow site registration system to track and regulate the production of marijuana by a registry identification cardholder or a person designated by the registry identification cardholder to produce marijuana for the registry identification cardholder.

(b) Except as provided in paragraph (c) of this subsection, a person may not produce marijuana unless the person is registered under this section.

(c) Paragraph (b) of this subsection does not apply to the production of marijuana as provided in ORS 475B.010 to 475B.545 or as otherwise provided for by the statutory laws of this state.

(2) Rules adopted under this section must require an applicant for a registry identification card, or a registry identification cardholder who produces marijuana or who designates another person to produce marijuana, to submit an application to the authority containing the following information at the time of making an application under ORS 475B.797 (2), renewing a registry identification card under ORS 475B.797 (6)(b), or notifying the authority of a change under ORS 475B.797 (6)(a):

(a) The name of the person responsible for the marijuana grow site;

(b) Proof that the person is 21 years of age or older;

(c) The address of the marijuana grow site; and

(d) Any other information that the authority considers necessary to track the production of marijuana under ORS 475B.785 to 475B.949.

(3)(a) The authority shall conduct a criminal records check under ORS 181A.195 of any person whose name is submitted under this section as the person responsible for a marijuana grow site.

(b) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not act as or be designated a person responsible for a marijuana grow site for two years from the date of conviction.

(c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not act as or be designated a person responsible for a marijuana grow site.

(4) Subject to subsection (11) of this section, the authority shall issue a marijuana grow site registration card if the requirements of subsections (2) and (3) of this section are met.

(5) A person who holds a marijuana grow site registration card under this section must display the card at the marijuana grow site at all times.

(6) A marijuana grow site registration card must be obtained and posted for each registry identification cardholder for whom marijuana is being produced at a marijuana grow site.

(7)(a) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder.

(b) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to the registry identification cardholder upon the request of the registry identification cardholder.

(c) All usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to a marijuana processing site

upon the request of the registry identification cardholder. For purposes of this paragraph, a request to transfer usable marijuana constitutes an assignment of the right to possess the usable marijuana.

(d) All seeds, immature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to a medical marijuana dispensary upon request of the registry identification cardholder. For purposes of this paragraph, a request to transfer seeds, immature marijuana plants or usable marijuana constitutes an assignment of the right to possess the seeds, immature marijuana plants or usable marijuana.

(e) Information related to transfers made under this subsection must be submitted to the authority in the manner required by ORS 475B.816.

(8) A registry identification cardholder, or the designated caregiver of a registry identification cardholder, may reimburse a person responsible for a marijuana grow site for all costs associated with the production of marijuana for the registry identification cardholder.

(9) The authority may inspect:

(a) The marijuana grow site of a person designated to produce marijuana by a registry identification cardholder to ensure compliance with this section and ORS 475B.816 and 475B.831 and any rule adopted under this section and ORS 475B.816 and 475B.831; and

(b) The records of the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder to ensure compliance with this section and ORS 475B.816 and any rule adopted under this section and ORS 475B.816.

(10) The authority may refuse to register a registry identification cardholder or a designee under this section or may suspend or revoke the registration of a person responsible for a marijuana grow site if the authority determines that the applicant or the person responsible for a marijuana grow site violated a provision of ORS 475B.785 to 475B.949, a rule adopted under ORS 475B.785 to 475B.949 or an ordinance adopted pursuant to ORS 475B.928.

(11) The authority may require a person responsible for a marijuana grow site, prior to issuing a marijuana grow site registration card under subsection (4) of this section, to pay a fee reasonably calculated to pay costs incurred under this section and ORS 475B.816 and 475B.879. [Formerly 475B.420]

475B.813 Address of marijuana grow site. (1) For purposes of ORS 475B.785 to 475B.949, the following forms of evidence shall be sufficient to establish the address where a marijuana grow site is located:

- (a) A tax lot number;
- (b) An assessor's map number with a map attached, showing the exact location of the marijuana grow site; or
- (c) The exact location of the marijuana grow site using one or more of the following:
 - (A) Longitude and latitude coordinates;
 - (B) Township coordinates; or
 - (C) Global positioning system coordinates.

(2) For purposes of ORS 475B.810, the Oregon Health Authority shall accept the forms of evidence described in subsection (1) of this section for the purpose of establishing the address where a marijuana grow site is located. [2017 c.613 §16a]

475B.816 Duty to submit production data to Oregon Health Authority. (1) A person designated to produce marijuana by a registry identification cardholder must submit to the Oregon Health Authority, in a form and manner established by the authority by rule, the following information related to the production of marijuana:

- (a) The number of mature marijuana plants and immature marijuana plants, the amount of marijuana leaves and flowers being dried, and the amount of usable marijuana, in the person's possession;
- (b) The number of mature marijuana plants and immature marijuana plants, and the amount of usable marijuana, that the person transfers to each registry identification cardholder for whom the person produces marijuana;
- (c) The amount of usable marijuana that the person transfers to each marijuana processing site; and
- (d) The number of immature marijuana plants, and the amount of usable marijuana, that the person transfers to each medical marijuana dispensary.

(2) The authority shall by rule require a person designated to produce marijuana by a registry identification cardholder to submit the information described in subsection (1) of this section once each month. The authority may not employ any method other than that described in this section to obtain information related to the production of marijuana from a person designated to produce marijuana by a registry identification cardholder.

(3) In addition to submitting the information as required by subsection (1) of this

section, a person designated to produce marijuana by a registry identification cardholder must keep a record of the information described in subsection (1) of this section for two years after the date on which the person submits the information to the authority. [Formerly 475B.423]

475B.819 Delegation of duty to submit production data; rules. (1) Notwithstanding ORS 475B.816 (2), a person designated to produce marijuana by a registry identification cardholder may delegate the person's duty to submit to the Oregon Health Authority the information described in ORS 475B.816 to another person designated to produce marijuana by a registry identification cardholder if the marijuana grow sites for which the persons are required to submit the information are located at the same address.

(2) A person to whom the duty described in subsection (1) of this section is delegated must inform the authority of the delegation in a form and manner prescribed by the authority.

(3) In adopting rules prescribing the form and manner in which information is submitted to the authority under ORS 475B.816, the authority shall adopt rules that lessen the administrative burden on persons to whom the duty described in subsection (1) of this section is delegated. [2016 c.23 §20]

475B.822 Personal agreements. Notwithstanding ORS 475B.810 (7), a person responsible for a marijuana grow site may enter into an agreement with a registry identification cardholder under which the registry identification cardholder assigns, to the person responsible for the marijuana grow site, a portion of the right to possess the seeds, immature marijuana plants and usable marijuana that are the property of the registry identification cardholder. [Formerly 475B.425]

475B.825 Transfer of usable marijuana. (1) Subject to subsection (2) of this section, a marijuana grow site may transfer up to 20 pounds of usable marijuana per year to a person that holds a license issued under ORS 475B.090 or 475B.100, provided that:

(a) The transfer is tracked using the system developed and maintained under ORS 475B.177;

(b) More than 12 mature marijuana plants are produced at the marijuana grow site;

(c) The usable marijuana has been assigned to the person responsible for the marijuana grow site pursuant to ORS 475B.822;

(d) The usable marijuana has been tested in accordance with the provisions of ORS 475B.550 to 475B.590; and

(e) The marijuana grow site first registered with the Oregon Health Authority under ORS 475B.810 on or before August 2, 2017.

(2) If the Oregon Liquor Control Commission determines that the supply of marijuana items offered for sale by marijuana retailers that hold a license issued under ORS 475B.105 is exceeding consumer demand for the marijuana items, and if the commission determines that the market for marijuana items in this state will not self-correct for the excess, the commission may issue an order that temporarily reduces the amount of usable marijuana that may be transferred pursuant to this section or that temporarily suspends the ability to transfer usable marijuana pursuant to this section. [2017 c.613 §8]

Note: Sections 8a and 8b, chapter 613, Oregon Laws 2017, provide:

Sec. 8a. The Oregon Liquor Control Commission shall monitor the lawful transfer of any usable marijuana, as defined in ORS 475B.015, to a person that holds a license issued under ORS 475B.090 or 475B.100 by a marijuana grow site, as defined in ORS 475B.410 [renumbered 475B.791], to determine whether the laws of this state may allow for the lawful transfer of additional usable marijuana to a person that holds a license issued under ORS 475B.090 or 475B.100 by a marijuana grow site. On or before September 15, 2018, the commission shall submit the commission's findings and recommendations, in the manner prescribed by ORS 192.245, to the interim committees of the Legislative Assembly related to judiciary. [2017 c.613 §8a]

Sec. 8b. Section 8a of this 2017 Act is repealed on January 2, 2019. [2017 c.613 §8b]

475B.828 Marijuana grow site security systems. ORS 475B.895 does not authorize the Oregon Health Authority or the Oregon Liquor Control Commission to require a marijuana grow site to use a security system or any component of a security system, such as video surveillance, an alarm system, sensors or physical barriers. [2017 c.613 §14]

(Possession Limits for Registry Identification Cardholders, Designated Primary Caregivers and Marijuana Grow Sites)

475B.831 Possession limits for marijuana plants. (1)(a) A registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess:

(A) Six or fewer mature marijuana plants; and

(B) Twelve or fewer immature marijuana plants.

(b)(A) Unless an address is the marijuana grow site of a person designated to produce

marijuana by a registry identification cardholder, the address where a registry identification cardholder or the primary caregiver of a registry identification cardholder produces marijuana may be used to produce not more than:

(i) Six or fewer mature marijuana plants per registry identification cardholder, up to 12 mature marijuana plants; and

(ii) Twelve or fewer immature marijuana plants per registry identification cardholder, up to 24 immature marijuana plants.

(B) Except as provided in subparagraph (C) of this paragraph, an address that is subject to this paragraph may not be used to produce marijuana plants pursuant to ORS 475B.301.

(C) Subject to subparagraph (D) of this paragraph, an address that is subject to this paragraph may be used to produce marijuana plants pursuant to ORS 475B.301 if a person other than a registry identification cardholder who is using the address to produce marijuana plants pursuant to ORS 475B.785 to 475B.949 resides at the address.

(D) An address that is subject to this paragraph may not be used to produce more than 12 total mature marijuana plants.

(2)(a) A person may be designated to produce marijuana under ORS 475B.810 by no more than four registry identification cardholders.

(b) A person who is designated to produce marijuana by a registry identification cardholder may produce no more than six mature marijuana plants and no more than 12 immature marijuana plants that are 24 inches or more in height for a registry identification cardholder who designates the person to produce marijuana.

(3) If the address of a person responsible for a marijuana grow site under ORS 475B.810 is located within city limits in an area zoned for residential use:

(a) Except as provided in paragraph (b) of this subsection, no more than 12 mature marijuana plants and no more than 24 immature marijuana plants that are 24 inches or more in height may be produced at the address; or

(b) Subject to subsection (5) of this section, if each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.810 before January 1, 2015:

(A) No more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 12 mature marijuana plants, not to exceed 24 mature

marijuana plants, may be produced at the address; and

(B) No more than 48 immature marijuana plants that are 24 inches or more in height may be produced at the address.

(4) If the address of a person responsible for a marijuana grow site under ORS 475B.810 is located in an area other than an area described in subsection (3) of this section:

(a) Except as provided in paragraph (b) of this subsection, no more than 48 mature marijuana plants and no more than 96 immature marijuana plants that are 24 inches or more in height may be produced at the address; or

(b) Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475B.810 before January 1, 2015:

(A) No more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants, may be produced at the address; and

(B) No more than 192 immature marijuana plants that are 24 inches or more in height may be produced at the address.

(5) If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (3)(b) or (4)(b) of this section:

(a) No more than 12 mature marijuana plants and no more than 24 immature marijuana plants that are 24 inches or more in height may be subsequently produced at any address described in subsection (3) of this section at which the person responsible for that marijuana grow site produces marijuana.

(b) No more than 48 mature marijuana plants and no more than 96 immature marijuana plants that are 24 or more inches in height may be subsequently produced at any address described in subsection (4) of this section at which the person responsible for that marijuana grow site produces marijuana.

(6) If a registry identification cardholder who designated a person to produce marijuana for the registry identification cardholder pursuant to ORS 475B.810 terminates the designation, the person responsible for the marijuana grow site whose designation has been terminated may not be designated to produce marijuana by another registry identification cardholder, except that the person may be designated by another

registry identification cardholder if no more than 48 mature marijuana plants and no more than 96 immature marijuana plants that are 24 or more inches in height are produced at the address for the marijuana grow site at which the person produces marijuana.

(7) Subject to the limits described in subsections (2) to (6) of this section, if multiple persons responsible for a marijuana grow site under ORS 475B.810 are located at the same address, the persons designated to produce marijuana by registry identification cardholders who are located at that address may collectively produce marijuana plants for any number of registry identification cardholders who designate the persons to produce marijuana.

(8) If a law enforcement officer determines that there is a number of marijuana plants at an address in excess of the quantities specified in this section, or that an address is being used to produce a number of marijuana plants in excess of the quantities specified in subsection (1)(b) of this section, the law enforcement officer may confiscate only the excess number of marijuana plants. [Formerly 475B.428]

475B.834 Possession limits for usable marijuana. (1) Except as provided in subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess no more than 24 ounces of usable marijuana.

(2) Subject to subsection (3) of this section, a person designated to produce marijuana by a registry identification cardholder may possess the amount of usable marijuana that the person harvests from the person's mature marijuana plants, provided that the person may not possess usable marijuana in excess of the amount of usable marijuana in the person's possession as reported to the Oregon Health Authority under ORS 475B.816.

(3) A person designated to produce marijuana by a registry identification cardholder may not possess usable marijuana in excess of:

(a) For a marijuana grow site located outdoors, 12 pounds of usable marijuana per mature marijuana plant; or

(b) For a marijuana grow site located indoors, six pounds of usable marijuana per mature marijuana plant. [Formerly 475B.430]

475B.837 Duty to carry card when at location other than address on file with Oregon Health Authority. A person to whom a registry identification card has been issued under ORS 475B.797 (5)(a), an identification card has been issued under ORS

475B.797 (5)(b), or a marijuana grow site registration card has been issued under ORS 475B.810, may not possess marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts in a location other than the address on file with the Oregon Health Authority unless the person is carrying the card. [Formerly 475B.433]

(Marijuana Processing Sites)

475B.840 Marijuana processing site registration system; fees; rules. (1)(a) The Oregon Health Authority shall establish by rule a marijuana processing site registration system to track and regulate the processing of marijuana by a person responsible for a marijuana processing site.

(b) Except as provided in paragraph (c) of this subsection, a person may not process marijuana unless the person is registered under this section.

(c) Paragraph (b) of this subsection does not apply to the processing of marijuana as provided in ORS 475B.010 to 475B.545 or as otherwise provided for by the statutory laws of this state.

(2) The registration system established under subsection (1) of this section must require an applicant for a marijuana processing site to submit an application to the authority that includes:

(a) The name of the individual who owns the marijuana processing site or, if a business entity owns the marijuana processing site, the name of each individual who has a financial interest in the marijuana processing site;

(b) The name of the individual or individuals responsible for the marijuana processing site, if different from the name of the individual who owns the marijuana processing site;

(c) The address of the marijuana processing site;

(d) Proof that each individual responsible for the marijuana processing site is 21 years of age or older;

(e) Documentation, as required by the authority by rule, that demonstrates the marijuana processing site meets the requirements of subsection (3) of this section; and

(f) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a marijuana processing site:

(a) May not be located in an area that is zoned for residential use if the marijuana processing site processes cannabinoid extracts;

(b) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State; and

(c) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181A.195 for each individual named in an application under subsection (2) of this section.

(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site for two years from the date the individual is convicted.

(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site.

(5) If a person submits the application required under subsection (2) of this section, if the marijuana processing site identified in the application meets the requirements of this section and any rules adopted under this section and if each individual named in the application passes the criminal records check required under subsection (4) of this section, the authority shall register the marijuana processing site and issue proof of registration. Proof of registration must be displayed on the premises of the marijuana processing site at all times.

(6) A marijuana processing site that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

(7) The individual or individuals responsible for a marijuana processing site shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(8) The authority may inspect:

(a) The premises of a proposed marijuana processing site or a registered marijuana processing site to ensure compliance with this section and ORS 475B.846 and 475B.849 and any rules adopted under this section and ORS 475B.846 and 475B.849; and

(b) The records of a registered marijuana processing site to ensure compliance with subsection (7) of this section.

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a marijuana processing site if the authority determines that the applicant, the owner of

the marijuana processing site, a person responsible for the marijuana processing site, or an employee of the marijuana processing site, violated a provision of ORS 475B.785 to 475B.949, a rule adopted under ORS 475B.785 to 475B.949 or an ordinance adopted pursuant to ORS 475B.928.

(10) The authority shall adopt rules to implement this section, including rules that:

(a) Require a registered marijuana processing site to annually renew the registration for that site;

(b) Establish fees for registering, and renewing the registration of, a marijuana processing site;

(c) Require that medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred by a marijuana processing site be tested to ensure the public health and safety; and

(d) Impose any other standard on the operation of a marijuana processing site to ensure the public health and safety. [Formerly 475B.435]

475B.843 Authority to require fingerprints of applicants and other individuals.

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under ORS 475B.840. The powers conferred on the authority under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each partner of the limited partnership;

(2) If the applicant is a limited liability company, each member of the limited liability company;

(3) If the applicant is a corporation, each director and officer of the corporation;

(4) Any individual who holds a financial interest of 10 percent or more in the person applying for the license; and

(5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the license. [2016 c.23 §13]

475B.846 Duty to submit processing data to Oregon Health Authority; rules.

(1) The Oregon Health Authority shall require by rule a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to ORS 475B.879 the following information:

(a) The amount of usable marijuana transferred to the marijuana processing site;

(b) The amount and type of medical cannabinoid products transferred by the marijuana processing site;

(c) The amount and type of cannabinoid concentrates transferred by the marijuana processing site; and

(d) The amount and type of cannabinoid extracts transferred by the marijuana processing site.

(2) The authority by rule may require a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to ORS 475B.879 information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under ORS 475B.840 (1). The authority may not employ any method other than that described in this section to obtain information from a marijuana processing site. [Formerly 475B.438]

475B.849 Public health and safety standards for medical cannabinoid products, concentrates and extracts; rules.

(1) A marijuana processing site must meet any public health and safety standards established by the Oregon Health Authority by rule related to:

(a) Cannabinoid edibles, if the marijuana processing site processes marijuana into cannabinoid edibles;

(b) Cannabinoid concentrates, if the marijuana processing site processes marijuana into cannabinoid concentrates;

(c) Cannabinoid extracts, if the marijuana processing site processes marijuana into cannabinoid extracts; or

(d) Any other type of medical cannabinoid product identified by the authority by rule, if the marijuana processing site processes marijuana into that type of medical cannabinoid product.

(2) The authority shall adopt rules to implement this section. [Formerly 475B.440]

475B.852 Prohibition against transferring medical cannabinoid products, concentrates and extracts to certain persons; exceptions.

(1)(a) Except as provided in paragraph (b) of this subsection, a marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a person other than another marijuana processing site or a medical marijuana dispensary.

(b) A marijuana processing site may transfer a medical cannabinoid product, cannabinoid concentrate or cannabinoid extract to a registry identification cardholder, or the designated primary caregiver of a registry identification cardholder, provided that the registry identification cardholder or designated primary caregiver provides the marijuana processing site with the marijuana

to be processed into the medical cannabinoid product, cannabinoid concentrate or cannabinoid extract and the marijuana processing site receives no compensation for the transfer.

(c) A registry identification cardholder, or the designated primary caregiver of a registry identification cardholder, may reimburse a marijuana processing site for all costs associated with the processing of marijuana for the registry identification cardholder.

(2) A person other than a marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a medical marijuana dispensary. [Formerly 475B.443]

475B.855 Exception to registration requirement. ORS 475B.840 does not apply to a registry identification cardholder or a person who has been designated as a primary caregiver under ORS 475B.804 who processes a medical cannabinoid product or a cannabinoid concentrate for a registry identification cardholder. [Formerly 475B.445]

(Medical Marijuana Dispensaries)

475B.858 Medical marijuana dispensary registration system; fees; rules. (1)(a) The Oregon Health Authority shall establish by rule a medical marijuana dispensary registration system for the purpose of tracking and regulating the transfer of:

(A) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers and persons responsible for marijuana grow sites to medical marijuana dispensaries;

(B) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from persons responsible for marijuana processing sites to medical marijuana dispensaries; and

(C) Usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from medical marijuana dispensaries to registry identification cardholders and designated primary caregivers.

(b) A person may not operate an establishment for the purpose of providing the services described in paragraph (a) of this subsection unless the person is registered under this section.

(2) The registration system established under subsection (1) of this section must require an applicant for a medical marijuana dispensary to submit an application to the authority that includes:

(a) The name of the individual who owns the medical marijuana dispensary or, if a business entity owns the medical marijuana dispensary, the name of each individual who has a financial interest in the medical marijuana dispensary;

(b) The name of the individual or individuals responsible for the medical marijuana dispensary, if different from the name of the individual who owns the medical marijuana dispensary;

(c) The address of the medical marijuana dispensary;

(d) Proof that each individual responsible for the medical marijuana dispensary is 21 years of age or older;

(e) Documentation, as required by the authority by rule, that demonstrates the medical marijuana dispensary meets the requirements of subsection (3) of this section; and

(f) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a medical marijuana dispensary:

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

(b) May not be located at the same address as a marijuana grow site;

(c) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State;

(d) Except as provided under ORS 475B.864, 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);

(e) Must not be located within 1,000 feet of another medical marijuana dispensary; and

(f) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181A.195 for each individual named in an application submitted under subsection (2) of this section.

(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a medical marijuana dispensary for two years from the date the individual is convicted.

(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a medical marijuana dispensary.

(5) If a person submits the application required under subsection (2) of this section, if the medical marijuana dispensary identified in the application meets the requirements of this section and any rules adopted under this section and if each individual named in the application passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana dispensary and issue proof of registration. Proof of registration must be displayed on the premises of the medical marijuana dispensary at all times.

(6) A medical marijuana dispensary that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

(7) The individual or individuals responsible for a medical marijuana dispensary shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds.

(8) The authority may inspect:

(a) The premises of a proposed medical marijuana dispensary or a registered medical marijuana dispensary to ensure compliance with this section and ORS 475B.867 and any rules adopted under this section or ORS 475B.867; and

(b) The records of a registered medical marijuana dispensary to ensure compliance with subsection (7) of this section.

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a medical marijuana dispensary if the authority determines that the applicant, the owner of the medical marijuana dispensary, a person responsible for the medical marijuana dispensary, or an employee of the medical marijuana dispensary, violated a provision of ORS 475B.785 to 475B.949, a rule adopted under ORS 475B.785 to 475B.949 or an ordinance adopted pursuant to ORS 475B.928.

(10) The authority shall adopt rules to implement this section, including rules that:

(a) Require a registered medical marijuana dispensary to annually renew the registration for that dispensary;

(b) Establish fees for registering, and renewing the registration of, a medical marijuana dispensary;

(c) Require that each medical marijuana dispensary install and maintain a minimum security system that includes video surveillance, an alarm system and a safe;

(d) Require that usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts and immature marijuana plants transferred by a medical marijuana dispensary be tested to ensure the public health and safety; and

(e) Impose any other standard on the operation of a medical marijuana dispensary to ensure the public health and safety. [Formerly 475B.450]

475B.861 Authority to require fingerprints of applicants and other individuals.

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under ORS 475B.858. The powers conferred on the authority under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each partner of the limited partnership;

(2) If the applicant is a limited liability company, each member of the limited liability company;

(3) If the applicant is a corporation, each director and officer of the corporation;

(4) Any individual who holds a financial interest of 10 percent or more in the person applying for the license; and

(5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the license. [2016 c.23 §14]

475B.864 Medical marijuana dispensary located within 1,000 feet of school. Notwithstanding ORS 475B.858 (3)(d), a medical marijuana dispensary may be located within 1,000 feet of a school if:

(1) The medical marijuana dispensary is not located within 500 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

(2) The Oregon Liquor Control Commission determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the medical marijuana dispensary. [2017 c.613 §22]

475B.867 Duty to submit dispensing data to Oregon Health Authority; rules.

(1) The Oregon Health Authority shall re-

quire by rule a medical marijuana dispensary to submit to the authority for inclusion in the database developed and maintained pursuant to ORS 475B.879 the following information:

(a) The amount of usable marijuana transferred to and by the medical marijuana dispensary;

(b) The amount and type of medical cannabinoid products transferred to and by the medical marijuana dispensary;

(c) The amount and type of cannabinoid concentrates transferred to and by the medical marijuana dispensary;

(d) The amount and type of cannabinoid extracts transferred to and by the medical marijuana dispensary; and

(e) The quantity of immature marijuana plants transferred to and by the medical marijuana dispensary.

(2) The authority by rule may require a medical marijuana dispensary to submit to the authority for inclusion in the database developed and maintained pursuant to ORS 475B.879 information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under ORS 475B.858 (1). The authority may not employ any method other than that described in this section to obtain information from a medical marijuana dispensary. [Formerly 475B.453]

475B.870 Establishment of school after registration. If a school described in ORS 475B.858 (3)(d) that has not previously been attended by children is established within 1,000 feet of a medical marijuana dispensary, the medical marijuana dispensary may remain at its current location unless the Oregon Health Authority revokes the registration of the medical marijuana dispensary. [Formerly 475B.455]

Note: Section 174, chapter 614, Oregon Laws 2015, provides:

Sec. 174. If the Oregon Health Authority refuses to reregister a medical marijuana dispensary before the effective date of this 2015 Act [June 30, 2015] on the basis that the medical marijuana dispensary is located within 1,000 feet of a school as described in ORS 475.314 (3)(d) [renumbered 475B.858 (3)(d)], the authority shall reregister the medical marijuana dispensary on or after the effective date of this 2015 Act upon receiving a request, in a form and manner prescribed by the authority, to reregister the medical marijuana dispensary from the person who was previously registered as the person responsible for the medical marijuana dispensary. [2015 c.614 §174]

475B.873 Receipt of marijuana by nonprofit dispensary; dispensation to certain cardholders; rules. (1) In addition to the powers granted nonprofit corporations under ORS 65.077 and 65.081, a medical marijuana dispensary that is owned by a

nonprofit corporation organized under ORS chapter 65 may receive by gift, devise or bequest:

(a) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers, persons responsible for marijuana grow sites, persons who hold a license under ORS 475B.070 and persons who hold a certificate under ORS 475B.286; and

(b) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from persons responsible for marijuana processing sites, persons who hold a license under ORS 475B.090 and persons who hold a certificate under ORS 475B.286.

(2) If a registry identification cardholder's annual income is at or below the federal poverty guidelines, a medical marijuana dispensary that is owned by a nonprofit corporation organized under ORS chapter 65 shall dispense usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts to that registry identification cardholder or the designated primary caregiver of that registry identification cardholder free of charge or at a discounted price.

(3) The Oregon Health Authority shall adopt rules necessary to implement this section. [2016 c.23 §22]

475B.876 Oregon Health Authority telephone hotline. (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.882. [2017 c.476 §6]

(Databases and Confidentiality of Information)

475B.879 Database of information related to production, processing and dispensing. (1) The Oregon Health Authority shall develop and maintain a database of information related to the production of marijuana by persons designated to produce

marijuana by a registry identification cardholder, the processing of marijuana by a marijuana processing site under ORS 475B.840 and the transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by medical marijuana dispensaries under ORS 475B.858. At a minimum, the database must include the information submitted to the authority under ORS 475B.816, 475B.846 and 475B.867.

(2)(a) Subject to paragraph (c) of this subsection, the authority may provide information that is stored in the database developed and maintained under this section to a law enforcement agency.

(b) Subject to paragraph (c) of this subsection, the authority may provide information that is stored in the database developed and maintained under this section to the regulatory agencies of a city or county.

(c) The authority may not disclose:

(A) Any personally identifiable information related to a registry identification cardholder or a designated primary caregiver that is stored in the database developed and maintained under this section.

(B) Any information related to the amount and type of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred to or by persons designated to produce marijuana by a registry identification cardholder, marijuana processing sites or medical marijuana dispensaries.

(3) Nothing in this section prevents a law enforcement agency from lawfully obtaining information that is stored in the database developed and maintained under this section by subpoena. [Formerly 475B.458]

475B.882 Database of information related to cardholders. (1)(a) The Oregon Health Authority shall establish and maintain a list of:

(A) The names of persons to whom a registry identification card has been issued under ORS 475B.797;

(B) The names of persons designated as primary caregivers under ORS 475B.804; and

(C) The addresses of marijuana grow sites registered under ORS 475B.810.

(b) Except as provided in subsection (2) of this section, the list is confidential and not subject to public disclosure under ORS 192.311 to 192.478.

(c) The authority shall develop a system by which authorized employees of state and local law enforcement agencies may verify that:

(A) A person lawfully possesses a registry identification card;

(B) A person is the designated primary caregiver of a lawful possessor of a registry identification card; or

(C) A location is a registered marijuana grow site.

(2) Names, addresses and other identifying information from the list established and maintained pursuant to subsection (1) of this section may be released to:

(a) Authorized employees of the authority as necessary to perform official duties of the authority.

(b) Authorized employees of state or local law enforcement agencies who provide to the authority adequate identification, but only as necessary to verify that:

(A) A person lawfully possesses a registry identification card;

(B) A person is the designated primary caregiver of a lawful possessor of a registry identification card; or

(C) A location is a registered marijuana grow site.

(3) Authorized employees of state or local law enforcement agencies who obtain identifying information as authorized by this section may not release or use the information for any purpose other than to verify that:

(a) A person lawfully possesses a registry identification card;

(b) A person is the designated primary caregiver of a lawful possessor of a registry identification card; or

(c) A location is a registered marijuana grow site.

(4) In addition to releasing information to authorized employees of state or local law enforcement agencies for purposes of verifying information under subsection (2)(b) of this section, the authority may release to authorized employees of state or local law enforcement agencies the minimum amount of information necessary to enable an employee to determine whether an individual or location is in compliance with a provision of ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to 475B.949.

(5) If the authority determines, after conducting an investigation or receiving a complaint of an alleged violation of a provision of ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to 475B.949, that a violation of a provision of ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to 475B.949 has occurred, the authority may provide information obtained by the authority, except for information related to a registry identification cardholder's

debilitating condition, to authorized employees of state or local law enforcement agencies, or to another state or local government agency with jurisdiction over the matter. [Formerly 475B.460]

475B.885 Confidentiality of personally identifiable information. (1) Any personally identifiable information, as defined in ORS 432.005, other than a name of an individual or an address submitted with an application under ORS 475B.840 or 475B.858, that the Oregon Health Authority collects and maintains for purposes of registering a marijuana grow site under ORS 475B.810, a marijuana processing site under ORS 475B.840, or a medical marijuana dispensary under ORS 475B.858, is confidential and not subject to public disclosure under ORS 192.311 to 192.478, except that the authority may provide personally identifiable information to a person registered under ORS 475B.785 to 475B.949 if the registrant requests the information and the information is related to a designation made under ORS 475B.785 to 475B.949.

(2) Any personally identifiable information, as defined in ORS 432.005, submitted to the authority under ORS 475B.816, 475B.846 or 475B.867 or pursuant to ORS 475B.879 is confidential and not subject to public disclosure under ORS 192.311 to 192.478.

(3) Any record that the authority keeps or maintains for purposes related to the installation or maintenance of a security system by a medical marijuana dispensary pursuant to rules adopted under ORS 475B.858 (10) is confidential and not subject to public disclosure under ORS 192.311 to 192.478. [Formerly 475B.462]

475B.888 Disclosure of personally identifiable information upon revocation or suspension of registration. Notwithstanding ORS 475B.885, if the Oregon Health Authority suspends or revokes the registration of the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary, or otherwise takes disciplinary action against the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary, the authority shall provide that information to a law enforcement agency. [Formerly 475B.464]

475B.892 Oregon Health Authority electronic system; requirements; confidentiality. (1) Except as provided in subsection (5) of this section, the Oregon Health Authority shall establish, maintain and operate an electronic system for the keeping of

information received by the authority under ORS 475B.797 and 475B.810 or information included on a registry identification card issued under ORS 475B.797 or on a marijuana grow site registration card issued under ORS 475B.810.

(2) The authority may contract with a state agency or private entity to ensure the effective establishment, maintenance or operation of the electronic system.

(3) Except as provided in subsection (4) of this section, information kept in the electronic system is confidential and not subject to public disclosure under ORS 192.311 to 192.478. Except as provided in subsection (4) of this section, the authority may not disclose the information for any reason.

(4) Except as provided in subsection (5) of this section, the authority shall establish the electronic system in a manner that allows the Oregon Liquor Control Commission and the Department of Revenue to remotely access the electronic system. Information disclosed to the commission and the department under this subsection remains confidential and not subject to public disclosure under ORS 192.311 to 192.478. The commission and the department may not disclose the information for any reason.

(5) The authority is not required to keep in the database, and the commission and the department may not access, the following types of information:

(a) Information related to the debilitating condition of a registry identification cardholder; or

(b) The contact information or address of a registry identification cardholder or a designated primary caregiver, unless the contact information or address are the same as the contact information or address of a marijuana grow site.

(6) The electronic system must be immediately accessible by the commission and the department at all times. [2017 c.183 §31]

475B.895 Use of Oregon Liquor Control Commission tracking system; exemptions; fees; rules. (1) The Oregon Health Authority shall enter into an agreement with the Oregon Liquor Control Commission under which the commission shall use the system developed and maintained under ORS 475B.177 to track:

(a) The propagation of immature marijuana plants and the production of marijuana by marijuana grow sites;

(b) The processing of marijuana into medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts that are transferred to a medical marijuana dispensary;

(c) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by a marijuana grow site or a medical marijuana dispensary to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder; and

(d) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts between marijuana grow sites, marijuana processing sites and medical marijuana dispensaries.

(2) Marijuana grow sites, marijuana processing sites, medical marijuana dispensaries and any other person that processes marijuana into medical cannabinoid products and cannabinoid concentrates for the purpose of transferring the medical cannabinoid products and cannabinoid concentrates to a medical marijuana dispensary are subject to tracking under this section.

(3) On and after the date on which a marijuana grow site becomes subject to tracking under this section, the person is exempt from the requirements of ORS 475B.816 and the provisions of ORS 475B.810 that relate to ORS 475B.816.

(4) On and after the date on which a marijuana processing site becomes subject to tracking under this section, the marijuana processing site is exempt from the requirements of ORS 475B.846 and the provisions of ORS 475B.840 that relate to ORS 475B.846.

(5) On and after the date on which a medical marijuana dispensary becomes subject to tracking under this section, the medical marijuana dispensary is exempt from the requirements of ORS 475B.867 and the provisions of ORS 475B.858 that relate to ORS 475B.867.

(6) The commission may conduct inspections and investigations of alleged violations of ORS 475B.785 to 475B.949 about which the commission obtains knowledge as a result of performing the commission's duties under this section. Notwithstanding ORS 475B.299, the commission may use regulatory specialists, as defined in ORS 471.001, to conduct the inspections and investigations, including inspections and investigations of marijuana grow sites located at a primary residence.

(7) Notwithstanding ORS 475B.759, before making any other distribution from the Oregon Marijuana Account established under ORS 475B.759, the Department of Revenue shall first distribute moneys quarterly from the account to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475B.296 for purposes of paying administrative, inspection and in-

vestigatory costs incurred by the commission under this section, provided that the amount of distributed moneys does not exceed \$1.25 million per quarter. For purposes of estimating the amount of moneys necessary to pay costs incurred under this section, the commission shall establish a formulary based on expected costs for each marijuana grow site, marijuana processing site or medical marijuana dispensary that is tracked under this section. The commission shall provide to the Department of Revenue and the Legislative Fiscal Officer before each quarter the estimated amount of moneys necessary to pay costs expected to be incurred under this section and the formulary.

(8) When imposing a fee on a person responsible for a marijuana grow site, marijuana processing site or medical marijuana dispensary under ORS 475B.810, 475B.840 or 475B.858, the authority shall impose an additional fee that is reasonably calculated to pay costs incurred under this section other than costs paid pursuant to subsection (7) of this section. As part of the agreement entered into under subsection (1) of this section, the authority shall transfer fee moneys collected pursuant to this subsection to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475B.296. Moneys collected pursuant to this subsection and deposited in the Marijuana Control and Regulation Fund are continuously appropriated to the commission for purposes of this section.

(9) The authority and the commission may adopt rules as necessary to administer this section.

(10) This section does not apply to a marijuana grow site located at an address where a registry identification cardholder produces marijuana and no more than 12 mature marijuana plants and 24 immature marijuana plants are produced at the address. [2017 c.183 §40]

Note: Sections 41 and 96, chapter 183, Oregon Laws 2017, provide:

Sec. 41. (1) For purposes of subjecting marijuana grow sites, marijuana processing sites and medical marijuana dispensaries to tracking under section 40 of this 2017 Act [475B.895]:

(a) On or before September 1, 2017, the Oregon Health Authority shall notify marijuana grow sites, marijuana processing sites and medical marijuana dispensaries of the requirements of this section and section 40 of this 2017 Act;

(b) On or before December 1, 2017, each marijuana grow site, marijuana processing site and medical marijuana dispensary located in this state shall notify the authority in a form and manner prescribed by the authority as to whether the marijuana grow site, marijuana processing site or medical marijuana dispensary is electing to remain registered under ORS 475B.400 to 475B.525 [series became 475B.785 to 475B.949] and be subject to tracking or is electing to apply for

licensure under ORS 475B.010 to 475B.395 [series became 475B.010 to 475B.545];

(c) If the marijuana grow site, marijuana processing site or medical marijuana dispensary elects to apply for licensure under ORS 475B.010 to 475B.395, the marijuana grow site, marijuana processing site or medical marijuana dispensary must have filed an application with the Oregon Liquor Control Commission under ORS 475B.040 on or before January 1, 2018; and

(d) If the marijuana grow site, marijuana processing site or medical marijuana dispensary elects to remain registered under ORS 475B.400 to 475B.525 and be subject to tracking, the marijuana grow site, marijuana processing site or medical marijuana dispensary is subject to tracking beginning on or before July 1, 2018.

(2) If a marijuana grow site, marijuana processing site or medical marijuana dispensary does not make an election as required by subsection (1) of this section on or before January 1, 2018, the authority may not renew the registration of the marijuana grow site, marijuana processing site or medical marijuana dispensary.

(3) If a marijuana grow site, marijuana processing site or medical marijuana dispensary is not in compliance with subsection (1)(d) of this section on or before July 1, 2018, the authority may not renew the registration of the marijuana grow site, marijuana processing site or medical marijuana dispensary unless the marijuana grow site, marijuana processing site or medical marijuana dispensary has an application on file with the commission under ORS 475B.040 and the commission has not proposed to deny the application.

(4) The authority and the commission shall share information as necessary to implement this section. [2017 c.183 §41]

Sec. 96. Section 41 of this 2017 Act is repealed on July 1, 2019. [2017 c.183 §96]

(Designation, Assignment, Foreclosure)

475B.898 Authority to designate responsibility for site or dispensary to another person. (1) A person responsible for a marijuana processing site, or a person responsible for a medical marijuana dispensary, may designate that responsibility to another person.

(2) If a designation is made under this section, the designee must submit to the Oregon Health Authority proof that the designee meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, ORS 475B.840 (2)(d) and (4); or

(b) For medical marijuana dispensaries, ORS 475B.858 (2)(d) and (4).

(3) The authority may prescribe the form and manner of submitting proof under subsection (2) of this section. [Formerly 475B.468]

475B.901 Authority to assign responsibility for site or dispensary to another person. (1) A person responsible for a marijuana processing site, or a person responsible for a medical marijuana dispensary, may assign that responsibility to another person.

(2) If an assignment is made under this section, the assignee must submit to the Oregon Health Authority proof that the as-

signee meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, ORS 475B.840 (2)(d) and (4); or

(b) For medical marijuana dispensaries, ORS 475B.858 (2)(d) and (4).

(3) The authority may prescribe the form and manner of submitting proof under subsection (2) of this section. [Formerly 475B.469]

475B.904 Rights of secured parties. (1) In the event that a marijuana processing site or a medical marijuana dispensary is foreclosed or otherwise ceases operations as described in ORS chapter 79, a secured party, as defined in ORS 79.0102, may continue operations at the marijuana processing site or medical marijuana dispensary upon submitting to the Oregon Health Authority proof that the secured party or, if the secured party is a business entity, any individual who has a financial interest in the secured party, meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, ORS 475B.840 (2)(d) and (4); or

(b) For medical marijuana dispensaries, ORS 475B.858 (2)(d) and (4).

(2) The authority may prescribe the form and manner of submitting proof under subsection (1) of this section. [Formerly 475B.470]

(Protections From Civil and Criminal Liability)

475B.907 Exemptions from criminal liability. Except as provided in ORS 475B.910, a person engaged in or assisting in the medical use of marijuana is exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element if:

(1) The person holds a registry identification card.

(2) The person has applied for a registry identification card under ORS 475B.797 and the person has proof of written documentation described in ORS 475B.797 (2)(a) and proof of the date on which the person submitted the application to the Oregon Health Authority. An exemption under this subsection applies only until the authority approves or denies the application.

(3) The person is designated as a primary caregiver under ORS 475B.804.

(4) The person is responsible for or is employed by a marijuana grow site registered under ORS 475B.810.

(5) The person owns, is responsible for, or is employed by, a marijuana processing site.

(6) The person owns, is responsible for, or is employed by, a medical marijuana dispensary. [Formerly 475B.475]

475B.910 Exceptions to exemption from criminal liability. A person is not exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, and the person may not assert the affirmative defense established in ORS 475B.913, if the person, in connection with conduct constituting an element of the offense:

(1) Drives under the influence of marijuana as provided in ORS 813.010;

(2) Engages in the medical use of marijuana in a public place, as defined in ORS 161.015, in public view or in a correctional facility, as defined in ORS 162.135 (2), or a youth correction facility, as defined in ORS 162.135 (6); or

(3) Delivers marijuana to any individual who the person knows is not in possession of a registry identification card or to any individual or entity that the person knows has not been designated to receive marijuana or assigned a possessory interest in marijuana by an individual in possession of a registry identification card. [Formerly 475B.478]

475B.913 Affirmative defense. (1) Except as provided in ORS 475B.910, a person has an affirmative defense to a criminal charge of possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, if the person charged with the offense:

(a) Was diagnosed with a debilitating medical condition within 12 months of the date on which the person was arrested and was advised by the person's attending physician that the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition;

(b) Is engaged in the medical use of marijuana; and

(c) Possesses, delivers or manufactures marijuana only in quantities permitted under ORS 475B.831.

(2) A person does not need to lawfully possess a registry identification card to assert the affirmative defense established in this section.

(3) A person engaged in the medical use of marijuana who claims that marijuana pro-

vides medically necessary benefits and who is charged with a crime pertaining to the use of marijuana is not precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, provided that:

(a) The person possesses, delivers or manufactures marijuana only as permitted under ORS 475B.831 (1); and

(b) The person has taken a substantial step toward complying with the provisions of ORS 475B.785 to 475B.949.

(4) A defendant proposing to use the affirmative defense established in this section in a criminal action shall, not less than five days before the trial of the cause, file and serve upon the district attorney a written notice of the intention to assert the affirmative defense. The notice must specifically state the reasons why the defendant is entitled to assert the affirmative defense and the factual basis for the affirmative defense. If the defendant fails to file and serve the notice, the defendant is not permitted to assert the affirmative defense at the trial of the cause unless the court orders, for good cause, otherwise. [Formerly 475B.480]

475B.916 Prohibition against taking disciplinary action against attending physician. The Oregon Medical Board may not impose a civil penalty or take other disciplinary action against an attending physician for:

(1) Advising a person diagnosed as having a debilitating medical condition by the attending physician or another physician licensed under ORS chapter 677 about the risks and benefits associated with the medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, provided that the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition; or

(2) Providing the written documentation necessary for issuance or renewal of a registry identification card under ORS 475B.797, provided that the written documentation is based on the attending physician's personal assessment of the person's medical history and current medical condition and the attending physician has discussed with the person the potential risks and benefits associated with the medical use of marijuana. [Formerly 475B.483]

475B.919 Prohibition against taking disciplinary action against professional licensee; right to administer marijuana for medical purposes. (1) A professional li-

censing board may not impose a civil penalty or take other disciplinary action against a licensee based on the licensee's medical use of marijuana under the provisions of ORS 475B.785 to 475B.949 or actions taken by the licensee pursuant to the licensee's designation as a primary caregiver under ORS 475B.804.

(2)(a) A licensed health care professional may administer medical marijuana to a person who possesses a registry identification card and resides in a licensed health care facility if the administration of pharmaceuticals is within the scope of practice of the licensed health care professional. Administration of medical marijuana under this subsection may not take place in a public place as defined in ORS 161.015 or in the presence of a person under 18 years of age. If the medical marijuana administered under this subsection is smoked, adequate ventilation must be provided.

(b) Nothing in this subsection requires:

(A) A licensed health care professional to administer medical marijuana; or

(B) A licensed health care facility to make accommodations for the administration of medical marijuana. [Formerly 475B.485]

**(Civil Enforcement of
ORS 475B.785 to 475B.949)**

475B.922 Authority to investigate; rights related to seized property. (1) Registration under ORS 475B.785 to 475B.949 or possession of proof of registration under ORS 475B.785 to 475B.949 does not constitute probable cause to search the person or property of the registrant or otherwise subject the person or property of the registrant to inspection by a government agency. However, the Oregon Health Authority may inspect the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site registered under ORS 475B.840, or a medical marijuana dispensary registered under ORS 475B.858, at any reasonable time to determine whether the person responsible for the marijuana grow site, the person responsible for the marijuana processing site, or the person responsible for the medical marijuana dispensary, is in compliance with ORS 475B.785 to 475B.949 and rules adopted under ORS 475B.785 to 475B.949.

(2) Any property interest possessed, owned or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession of a law

enforcement agency, except that a law enforcement agency has no responsibility to maintain live marijuana plants lawfully seized. Such property interest may not be forfeited under any provision of law providing for the forfeiture of property, except pursuant to a sentence imposed after conviction of a criminal offense. Marijuana and equipment or paraphernalia used to produce, process or administer marijuana that was seized by a law enforcement officer shall be returned immediately if the district attorney in whose county the property was seized, or the district attorney's designee, determines that the person from whom the marijuana, equipment or paraphernalia was seized is entitled to the protections provided by ORS 475B.785 to 475B.949. The determination may be evidenced by a decision not to prosecute, the dismissal of charges or acquittal. [Formerly 475B.490]

475B.925 Civil penalty for violating ORS 475B.785 to 475B.949. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475B.785 to 475B.949, or for each violation of a rule adopted under a provision of ORS 475B.785 to 475B.949, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) All moneys collected pursuant to this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475B.785 to 475B.949. [Formerly 475B.495]

**(Regulation by Cities and
Counties of Cannabis for
Medical Use)**

475B.928 Local time, place and manner regulations. (1) For purposes of this section, "reasonable regulations" includes:

(a) Reasonable limitations on the hours during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate;

(b) Reasonable conditions on the manner in which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may transfer usable marijuana, medical cannabinoid products, cannabinoid

concentrates, cannabinoid extracts, immature marijuana plants and seeds;

(c) Reasonable requirements related to the public's access to the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary; and

(d) Reasonable limitations on where the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may be located.

(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites of persons designated to produce marijuana by registry identification cardholders, marijuana processing sites and medical marijuana dispensaries that are located in the area subject to the jurisdiction of the city or county. [Formerly 475B.500]

(Other Provisions)

475B.931 Duty of State Department of Agriculture and Oregon Liquor Control Commission to assist. Upon request the State Department of Agriculture and the Oregon Liquor Control Commission, pursuant to an agreement or otherwise, shall assist the Oregon Health Authority in implementing and enforcing the provisions of ORS 475B.785 to 475B.949 and rules adopted under the provisions of ORS 475B.785 to 475B.949. [Formerly 475B.505]

475B.934 Immunity for state agencies, officers, employees and agents in performance of duties. The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor Control Commission, and the officers, employees and agents of the authority, department and commission, are immune from any cause of action for the performance of, or the failure to perform, duties required by ORS 475B.785 to 475B.949. [Formerly 475B.507]

475B.937 Authority to possess, seize or dispose of marijuana and marijuana-derived products. Subject to any applicable provision of ORS chapter 183, the Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor Control Commission may possess, seize or dispose of marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts as is necessary for the authority to ensure compliance with and enforce the provisions of ORS 475B.785 to 475B.949 and any rule adopted

under ORS 475B.785 to 475B.949. [Formerly 475B.510]

475B.940 Cannabis seeds as propagant of nursery stock. (1) For purposes of ORS 475B.785 to 475B.949, seeds of the plant Cannabis family Cannabaceae are a propagant of nursery stock as defined in ORS 571.005.

(2) Notwithstanding subsection (1) of this section, the production and processing of seeds under ORS 475B.785 to 475B.949 is not subject to the labeling or other requirements of ORS 576.715 to 576.744 or 633.511 to 633.750. [Formerly 475B.513]

475B.943 Applicability of ORS 475B.785 to 475B.949 to criminal causes of action. The provisions of ORS 475B.785 to 475B.949 do not protect a person from a criminal cause of action based on possession, delivery or manufacture of marijuana that is not described in ORS 475B.785 to 475B.949. [Formerly 475B.515]

475B.946 Petitioning for disease or condition to be included as debilitating medical condition; rules. Any person may petition the Oregon Health Authority to request that a disease or condition be included among the diseases and conditions that qualify as debilitating medical conditions under ORS 475B.785 to 475B.949. The authority shall adopt rules establishing the procedure for filing a petition under this section and the manner by which the authority evaluates a request made under this section. Rules adopted under this section must require the authority to approve or deny a petition within 180 days of receiving the petition. Denial of a petition is a final agency action subject to judicial review. [Formerly 475B.517]

(Rulemaking)

475B.949 Authority to adopt rules for ORS 475B.785 to 475B.949. (1) The Oregon Health Authority shall adopt rules necessary for the implementation, administration and enforcement of ORS 475B.785 to 475B.949.

(2) The authority may adopt rules as the authority considers necessary to protect the public health and safety. [Formerly 475B.525]

OREGON CANNABIS COMMISSION

475B.952 Oregon Cannabis Commission. (1) The Oregon Cannabis Commission is established within the Oregon Health Authority. The commission consists of:

(a) The Public Health Officer or the Public Health Officer's designee; and

(b) Eight members appointed by the Governor as follows:

(A) A registry identification cardholder, as defined in ORS 475B.791;

(B) A person designated to produce marijuana by a registry identification cardholder, as defined in ORS 475B.791;

(C) An attending physician, as defined in ORS 475B.791;

(D) A person representing the Oregon Health Authority;

(E) A person representing the Oregon Liquor Control Commission;

(F) A local health officer, as described in ORS 431.418;

(G) A law enforcement officer; and

(H) A person knowledgeable about research proposal grant protocols.

(2) The term of office of each member of the commission is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 of the following year. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) The appointment of each member of the commission is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(4) Members of the commission are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. [2017 c.613 §1]

475B.955 Commission leadership; quorum. (1) The Oregon Cannabis Commission shall select one of its members as chairperson and another as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the offices as the commission determines.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least once every quarter at a time and place determined by the commission. The commission also may meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission. [2017 c.613 §2]

475B.958 Staff support for commission. The Oregon Health Authority shall provide staff support to the Oregon Cannabis Commission and shall perform other services as necessary for the effective operation of the commission. [2017 c.613 §3]

475B.961 Duties of commission. In addition to any other duty prescribed by law, the Oregon Cannabis Commission shall:

(1) Provide advice to the Oregon Health Authority with respect to the administration of ORS 475B.785 to 475B.949;

(2) Provide advice to the Oregon Liquor Control Commission with respect to the administration of ORS 475B.010 to 475B.545, insofar as those statutes pertain to registry identification cardholders and designated primary caregivers, as those terms are defined in ORS 475B.791;

(3) Develop a long-term strategic plan for ensuring that cannabis will remain a therapeutic option for persons with debilitating medical conditions as defined in ORS 475B.791;

(4) Develop a long-term strategic plan for ensuring that cannabis will remain affordable for persons with debilitating medical conditions as defined in ORS 475B.791; and

(5) Monitor and study federal laws, regulations and policies regarding marijuana. [2017 c.613 §6]

Note: Section 29, chapter 613, Oregon Laws 2017, provides:

Sec. 29. (1) Notwithstanding the term of office specified by section 1 (2) of this 2017 Act [475B.952 (2)], of the members first appointed to the Oregon Cannabis Commission:

(a) Two shall serve for terms ending January 1, 2019.

(b) Three shall serve for terms ending January 1, 2020.

(c) Three shall serve for terms ending January 1, 2021.

(2) Notwithstanding the confirmation requirement specified in section 1 (3) of this 2017 Act, the Governor shall appoint members to the commission as soon as practicable after the effective date of this 2017 Act [August 2, 2017], and the members may perform their duties under sections 4 and 6 [475B.961] of this 2017 Act before being confirmed. [2017 c.613 §29]

EXCLUSIVELY MEDICAL LICENSEES

475B.965 City, county ordinances regarding medical marijuana. If a city or county enacts or has enacted an ordinance prohibiting or allowing marijuana processing sites registered under ORS 475B.840 or medical marijuana dispensaries registered under ORS 475B.858, 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.968, 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 ORS 475B.122, 475B.127, 475B.129 or 475B.131. [2017 c.613 §17]

**AUTHORITY OF CITIES AND
COUNTIES TO PROHIBIT
ESTABLISHMENT OF
CANNABIS-RELATED BUSINESSES**

475B.968 Adoption of ordinances; referral to electors for approval. (1) The governing body of a city or county may adopt ordinances to be referred to the electors of the city or county as described in subsection (2) of this section that prohibit or allow the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

(a) Marijuana processing sites registered under ORS 475B.840;

(b) Medical marijuana dispensaries registered under ORS 475B.858;

(c) Marijuana producers that hold a license issued under ORS 475B.070;

(d) Marijuana processors that hold a license issued under ORS 475B.090;

(e) Marijuana wholesalers that hold a license issued under ORS 475B.100;

(f) Marijuana retailers that hold a license issued under ORS 475B.105;

(g) Marijuana producers that hold a license issued under ORS 475B.070 and that the Oregon Liquor Control Commission has designated as an exclusively medical licensee under ORS 475B.122;

(h) Marijuana processors that hold a license issued under ORS 475B.090 and that the commission has designated as an exclusively medical licensee under ORS 475B.127;

(i) Marijuana wholesalers that hold a license issued under ORS 475B.100 and that the commission has designated as an exclusively medical licensee under ORS 475B.129;

(j) Marijuana retailers that hold a license issued under ORS 475B.105 and that the commission has designated as an exclusively medical licensee under ORS 475B.131; or

(k) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county adopts an ordinance under this section, the governing body shall submit the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance:

(a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a medical marijuana dispensary registered under ORS

475B.858 or a marijuana processing site registered under ORS 475B.840; or

(b) To the commission, if the ordinance concerns a premises for which a license has been issued under ORS 475B.010 to 475B.545.

(4)(a) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue registering those entities to which the prohibition applies until the date of the next statewide general election.

(b) Upon receiving notice of a prohibition under subsection (3) of this section, the commission shall discontinue licensing those premises to which the prohibition applies until the date of the next statewide general election.

(5)(a) If an allowance is approved at the next statewide general election under subsection (2) of this section, and the allowance concerns an entity described in subsection (1)(a) or (b) of this section, the authority shall begin registering the entity to which the allowance applies on the first business day of the January immediately following the date of the statewide general election.

(b) If an allowance is approved at the next statewide general election under subsection (2) of this section, and the allowance concerns an entity described in subsection (1)(c) to (j) of this section, the commission shall begin licensing the premises to which the allowance applies on the first business day of the January immediately following the date of the next statewide general election.

(6) If the electors of a city or county approve an ordinance prohibiting or allowing an establishment described in subsection (1)(a), (b) or (g) to (j) of this section, the governing body of the city or county may amend the ordinance, without referring the amendment to the electors of the city or county, to prohibit or allow any other establishment described in subsection (1)(a), (b) or (g) to (j) of this section.

(7) Notwithstanding any other provisions of law, a city or county that adopts an ordinance under this section that prohibits the establishment of an entity described in subsection (1) of this section may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

(8) Notwithstanding subsection (1) of this section, a medical marijuana dispensary is not subject to an ordinance adopted under this section if the medical marijuana dispensary:

(a) Is registered under ORS 475B.858 on or before the date on which the governing body adopts the ordinance; and

(b) Has successfully completed a city or county land use application process.

(9) Notwithstanding subsection (1) of this section, a marijuana processing site is not subject to an ordinance adopted under this section if the marijuana processing site:

(a) Is registered under ORS 475B.840 on or before the date on which the governing body adopts the ordinance; and

(b) Has successfully completed a city or county land use application process. [Formerly 475B.800]
