

Senate Bill 497

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregonians Cooperating to Reduce Drug Abuse, Citizens for Legal Action)

SUMMARY

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

Declares state policy to regulate commerce in cannabis. Requires State Treasurer to enforce Act. Requires license for cultivation or distribution of cannabis for other than personal use. Prescribes license procedures.

Requires treasurer to hire persons to process cannabis. Prescribes contents of label for cannabis package. Provides for retail sale only in state-licensed retail liquor outlets.

Prescribes prices for buying of plants and selling of processed cannabis.

Requires treasurer to establish cannabis fund with moneys from sale. Specifies distribution of fund.

Prescribes penalties.

A BILL FOR AN ACT

1
2 Relating to cannabis; creating new provisions; repealing ORS 475.505, 475.510 and 475.515; and
3 appropriating money.

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

5 **SECTION 1.** This Act may be called The Oregon Marijuana Control Act of 1983.

6 **SECTION 2.** As used in this Act:

7 (1) "Cannabis" means any part of the species *cannabis sativa* or any species thereof, including *cannabis*
8 *indica*, *cannabis ruderalis* or any other variety of the species *cannabis sativa* whether growing or not, the seeds
9 thereof, and resin extracted from any part of the plant, its seeds or resin. The term does not include the
10 mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any
11 other compound, manufacture, salt derivative, mixture or preparation of the mature stalks except the resin
12 extracted fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

13 (2) "Commercial" means of or related to a nongr^{at}uitous exchange with consideration.

14 (3) "Cultivation" means the propagation, nurture and harvest of cannabis.

15 (4) "Gratuitous" means without consideration; noncommercial. Transfer contemporaneously with the
16 sale or tendering for sale of any goods, services or other things of value, shall be considered not gratuitous.

17 (5) "Processor" means a person who engages in the business of cleaning, testing, preparation, packaging
18 and labelling of cannabis for sale.

19 (6) "Purity" means freedom from substances not indigenous to cannabis, except for water.

20 (7) "State" means the State of Oregon or any county.

21 (8) "Trade" means the sale, transfer or distribution for any kind of consideration, of cannabis, whether by
22 wholesale or retail and includes speculation or trading in contracts for future delivery or purchase of any
23 quantity of cannabis.

24 (9) "Wholesale" means the sale or transfer to a retailer or sale or transfer for purpose other than human
25 consumption.

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.

1 **SECTION 3.** It is the policy of the Legislative Assembly and the purpose of this Act to establish a
2 comprehensive state program to regulate the commerce in cannabis in Oregon whereby:

- 3 (1) The abuse of cannabis is diminished;
- 4 (2) The use of cannabis by children is curtailed;
- 5 (3) The public health is protected by regulating the purity of cannabis in commerce;
- 6 (4) Illegal trafficking in cannabis is eliminated;
- 7 (5) The commerce in cannabis is taxed sufficiently to generate revenue commensurate to its place in the
8 state economy;
- 9 (6) State resources shall no longer be diverted to ineffective law enforcement policy on cannabis; and
- 10 (7) Medical research on cannabis is encouraged and barriers to the emergence of a domestic hemp
11 industry are removed.

12 **SECTION 4.** (1) The State Treasurer shall enforce this Act and:

- 13 (a) Shall adopt rules as may be necessary to carry out the provisions of this Act.
- 14 (b) May require in such manner and form as shall be prescribed such reports as are necessary to carry out
15 the powers or duties of the State Treasurer under this Act.

16 (2) Not later than March 1 of each year, the State Treasurer shall submit to the Speaker of the House of
17 Representatives and the President of the Senate a comprehensive and detailed written report with respect to
18 the cultivation, processing, storage, handling and distribution of cannabis subject to the provisions of this Act,
19 the inspection of establishments operated in connection therewith and recommendations for legislation to
20 improve the regulation of cannabis.

21 (3) The State Treasurer by rule shall prescribe the types or kinds of containers which may be used to
22 contain, store, transfer, convey, remove or withdraw cannabis prior to packing for sale at retail.

23 **SECTION 5.** (1) Except pursuant to a license issued under this Act by the State Treasurer, and in
24 compliance with the rule adopted under the authority of this Act, it shall be unlawful to do any of the
25 following:

- 26 (a) Cultivate cannabis for other than personal use.
- 27 (b) Process cannabis for other than personal use.
- 28 (c) Distribute cannabis for consideration to any person.
- 29 (d) Possess, cultivate or process cannabis with intent to distribute for consideration to any person.
- 30 (e) Otherwise be engaged in commerce in cannabis for consideration.

31 (2) For purposes of this section, "personal use" means the consumption of cannabis by an adult or
32 members of the immediate household of the adult and donees. The possession of more than five cannabis
33 plants or more than 2.2 pounds of crude cannabis shall raise the rebuttable presumption that possession is not
34 for personal use.

35 **SECTION 6.** (1) Before commencing in business as a cultivator or distributor of cannabis, and at such
36 other time as the State Treasurer shall prescribe, a person shall make application for and obtain the
37 appropriate license required by this Act. The application shall be in such form as the State Treasurer shall
38 prescribe and shall set forth truthfully and accurately the information called for on the form. An application
39 shall only be denied after notice and hearing at which the State Treasurer or a designee thereof finds by a
40 preponderance of the evidence that the applicant has failed to disclose material information required or made

1 a material false statement in the application. No license under this Act shall be issued to any applicant who
2 has not reached 21 years of age.

3 (2) There shall be no fee required for an applicant to obtain a license.

4 (3) Conviction of any cannabis-related offense under state or federal law prior to the effective date of this
5 Act shall not disqualify any applicant from licensure.

6 (4) Cannabis licenses issued pursuant to this Act expire upon the second anniversary of the issuance
7 thereof, unless renewed.

8 (5) The surviving spouse or legal representative of a deceased noncorporate licensee may continue to
9 exercise rights under the license for 30 days following the death of the licensee. Thereafter the rights may be
10 exercised only with the written consent of the State Treasurer. The consent expires, if not sooner revoked, 15
11 months from the date of death of the licensee. Consent shall be withheld unless the surviving spouse or legal
12 representative meets the qualifications prescribed by this Act for the type of license sought to be retained.

13 (6) The State Treasurer and agents and employees of the State Treasurer, during regular business hours and
14 without notice thereof, may conduct such inspections of the licensed premises, including the books, records
15 and accounts of the licensee as shall be considered appropriate for the enforcement of this Act.

16 (7) Any person aggrieved by an action of the State Treasurer shall have such recourse as provided any
17 other state licensee, including but not limited to contested case procedures under ORS 183.310 to 183.550.

18 (8) Sale or distribution of cannabis by vending machine or similar automation is prohibited.

19 (9) The State Treasurer shall report to the Legislative Assembly any matters which require immediate
20 changes in this Act in order to prevent abuses and evasions of this Act or the rules adopted thereunder or to
21 rectify undesirable conditions with the administration of this Act.

22 (10) For the five years next following the effective date of this Act and every fifth year thereafter, the State
23 Treasurer shall carry on a continuous study and investigation of cannabis commerce in order to:

24 (a) Ascertain any defects in this Act or in the administration thereof or any evasion of law or rules as may
25 arise or be practiced.

26 (b) Formulate recommendations for changes in law and the rules adopted thereunder to prevent such
27 abuses and evasions.

28 (c) Guard against the use of law and rules adopted thereunder as a cover for the carrying on of criminal
29 activities.

30 (11) No license issued under this Act shall be transferable to any other person, except in accordance with
31 subsection (5) of this section concerning the death of a licensee.

32 **SECTION 7.** (1) The State Treasurer shall issue a cultivation license to any person who meets the
33 requirements prescribed in section 6 of this Act.

34 (2) The holding of a commercial cultivation license shall be conditional upon conformity with this Act
35 and the rules adopted thereunder.

36 (3) It shall be unlawful for the holder of a cultivation license to distribute or deliver cannabis
37 commercially to any person not authorized to receive or purchase cannabis under the provisions of this Act
38 and the rules adopted thereunder. A copy of a license bearing the seal of the State Treasurer shall constitute
39 prima facie evidence of the license. Except in cases of conspiracy or accomplice liability, holders of a
40 commercial cultivation license shall not be liable for the actions of transferees in violation of this Act. For

1 purposes of this subsection, transfer is accomplished when the cultivator completes the performance with
2 reference to the physical delivery of the cannabis.

3 (4) Licensed cultivators shall be permitted to grow no more than 1,000 cannabis plants in any one-year
4 period.

5 **SECTION 8. (1)** The State Treasurer shall hire persons considered qualified to process cannabis.
6 Processors shall be responsible for cleaning the raw cannabis, testing for impurities, testing for potency,
7 packaging and labelling dried cannabis for retail sale.

8 (2) Processors shall be paid a salary established by the Legislative Assembly.

9 (3) Before any processor is hired by the State Treasurer or authorized agents, the treasurer may require a
10 bond in such form and amount as the treasurer may prescribe to insure compliance with the terms of the
11 license and the provisions of this Act.

12 (4) It shall be unlawful for any processor to distribute or deliver cannabis to any person not holding a
13 trader's license issued by authority of this Act.

14 (5) It shall be unlawful for any processor to distribute or commercially possess for more than 24 hours
15 any package containing cannabis which fails to bear a state seal or other such documentation as the State
16 Treasurer may prescribe as evidence that the revenue imposed by this Act has been paid.

17 **SECTION 9. (1)** The processor shall prepare cannabis in a package which bears a permanent label
18 containing the following information, in a form the State Treasurer may prescribe:

19 (a) The identity of the contents by species and variety.

20 (b) The name and place of business of the cultivator.

21 (c) Caution: Smoking any substance irritates the mouth, throat, breathing passages and lungs and may be
22 harmful to other organs. Inexperience or overdose may cause confusion or disorientation. Do not use around
23 or when operating hazardous equipment. Do not use during pregnancy. The operation of a motor vehicle
24 under the influence of cannabis, alcohol or any other intoxicant is a serious crime and may result in the loss of
25 your license to drive.

26 (d) The net quantity of contents in terms of dry weight by grams.

27 (e) Potency as expressed as the percentage of THC by dry weight.

28 (f) Such marketing or branding as shall prevent deception of the consumer with respect to the contents or
29 the quality thereof.

30 (2) The State Treasurer shall adopt rules concerning the labelling of cannabis to:

31 (a) Prohibit deception of the consumer with respect to the cannabis or the quantity thereof and to
32 prohibit, irrespective of falsity, statements relating to age, cultivation methods, guarantees and scientific or
33 irrelevant matters as the State Treasurer finds likely to mislead the consumer.

34 (b) Prohibit statements on the label that are disparaging of the product of a competitor or are false,
35 misleading, obscene or indecent.

36 (c) Prevent deception of the consumer by use of a trade or brand name that is the name of any living
37 individual of public prominence, or existing private or public organization, or is a name that is in simulation
38 or is an abbreviation thereof, and to prevent the use of a graphic, pictorial or emblematic representation of
39 any such individual or organization, if the use of such name or representation is likely to lead the consumer to
40 believe that the product has been endorsed, made or used by, or produced for, or under the supervision of, or

1 in accordance with the specifications of, such individuals or organizations. This shall not apply to the name or
2 location of the cultivator or the generic name of the cannabis contained therein.

3 (3) No processor shall affix labels or other documentation as the State Treasurer shall prescribe pursuant
4 to subsections (1) and (2) of this section to any package containing cannabis which contains a dilutant,
5 retardant or accelerator, preservative or any additive of any kind the effect whereof is to reduce the purity of
6 cannabis to less than 100 percent.

7 (4) It shall be unlawful for any person to alter, mutilate, destroy, obliterate or remove any label upon
8 cannabis held for sale as authorized by this Act except pursuant to rules adopted by the State Treasurer in
9 compliance with the requirements of this section.

10 **SECTION 10.** (1) The State Treasurer shall issue trade licenses to any person meeting the qualifications
11 of section 6 of this Act for the sale of cannabis at retail.

12 (2) It shall be unlawful for the holder of a trade license to sell, offer for sale or otherwise transfer with
13 consideration, cannabis to any person who has not reached 21 years of age or who is intoxicated.

14 (3) Before any license required by this section is granted to a trader, the State Treasurer may require a
15 bond in a form and amount as prescribed by the State Treasurer to insure compliance with the terms of the
16 license and the provisions of this Act.

17 **SECTION 11.** Cannabis shall be sold at the retail level only in state-licensed retail liquor outlets.

18 **SECTION 12.** The State Treasurer shall issue research licenses for the conduct of bona fide medical,
19 social, behavioral or other research upon which terms and conditions shall be prescribed consistent with the
20 purposes of this Act as set forth in section 3 of this Act.

21 **SECTION 13.** (1) The State Treasurer and authorized agents shall be the sole purchasers of the cannabis
22 plant or any part thereof from the licensed cultivator. Sale or purchase made by an unlicensed party shall be
23 considered unlawful trade on the part of both the seller and the buyer. The State Treasurer and authorized
24 agents shall purchase only those cannabis plants which are taller than one meter at the time of harvest. All
25 cannabis plants which do not reach the height of one meter at the time of harvest shall be destroyed. The
26 State Treasurer and authorized agents shall purchase only those plants which have flowered and are free of
27 disease, mold or insect infestation. Immature plants shall be destroyed at the time of harvest.

28 (2) The State Treasurer shall purchase cannabis plants from licensed cultivators at the following prices:

29 (a) Male or unsexed cannabis plants, \$25 per plant.

30 (b) Hermaphroditic and fertilized female cannabis plants, \$50 per plant.

31 (c) Unfertilized female cannabis plants, \$100 per plant.

32 (3) The State Treasurer, through licensed traders, shall sell processed cannabis at the following prices:

33 (a) \$40 per ounce for cannabis containing more than six percent THC and a proportionate price for all
34 fractional parts of an ounce of such cannabis.

35 (b) \$30 per ounce for cannabis containing more than four percent but not more than six percent THC and
36 a proportionate price for all fractional parts an ounce of such cannabis.

37 (c) \$20 per ounce for cannabis containing more than two percent but not more than four percent THC
38 and a proportionate price for all fractional parts of an ounce of such cannabis.

39 (d) \$10 per ounce for cannabis containing not more than two percent THC and a proportionate price for
40 all fractional parts thereof.

1 (4) The Legislative Assembly may adjust the prices for cannabis set forth in this section every two years
2 from the effective date of this Act. Such adjustments shall be tied to the Consumer Price Index for the
3 Portland Metropolitan Area published annually by the United States Department of Labor Statistics. The
4 index number in the column titled "all items" for the month of December next following the effective date of
5 this Act shall be the base index number and the corresponding index number for the month of December prior
6 to the meeting of the Legislative Assembly at which price adjustments are made shall be the "current index
7 number." The current index number shall be divided by the base index number. From the quotient thereof,
8 there shall be subtracted the integer one and any resulting positive number shall be deemed to be the
9 percentage of increase in the cost of living. The percentage of increase multiplied by the prices proscribed
10 therein shall be the maximum increase to be imposed on the purchase or sale of cannabis in the State of
11 Oregon under this Act.

12 **SECTION 14.** (1) All moneys from the sale of cannabis shall be forwarded to the State Treasurer, who
13 shall establish an interest-bearing cannabis fund within the State Treasury. This fund shall be used by the
14 State Treasurer to purchase raw cannabis from the cultivator, to pay the salaries of processors and other
15 authorized agents needed to carry out the provisions of this Act and to provide any equipment or personnel
16 necessary for the processing and distribution of cannabis pursuant to the provision of this Act.

17 (2) At the end of each fiscal year all moneys in the cannabis fund considered by the State Treasurer to be
18 profit shall be distributed as follows:

19 (a) Fifty percent to be distributed to local school districts in Oregon with each district to receive a
20 percentage of the profit in the proportion that the population of the district bears to the population of the
21 state.

22 (b) Fifty percent to be distributed to local law enforcement agencies in Oregon with each agency to receive
23 a percentage of the profit in the proportion that the population of the area served by the agency bears to the
24 population of the state.

25 **SECTION 15.** (1) No person, directly or indirectly, personally or through any agent or employe, whether
26 for consideration or gratuitously, shall cause to be published in a newspaper or magazine distributed anywhere
27 in the State of Oregon or to be broadcast or cablecast to a radio or television receiver in the State of Oregon,
28 or to appear in any display signs or personal solicitation, or any manner of advertising, any advertisement or
29 notice to promote or encourage the consumption or use in any way of cannabis.

30 (2) The prohibition in subsection (1) of this section does not apply to any of the following:

31 (a) Cannabis packages, crates, cartons and boxes of cannabis products. However, such items shall not be
32 used in display or ornament or as a fixture on any licensed premises.

33 (b) Logos contained in private correspondence or trade publications not intended for public distribution.

34 (c) A single notice reading "Authorized Cannabis Outlet" in a style prescribed by the State Treasurer.

35 (3) It shall be unlawful for any person engaged as a cultivator, processor or trader of cannabis to publish
36 or disseminate or cause to be published or disseminated by radio or television broadcast or cablecast, or in any
37 newspaper, periodical or printed on graphic matter, any advertisement of cannabis, if such advertisement is
38 calculated to induce sales in or use of cannabis, unless such advertisement is in conformity with rules adopted
39 by the State Treasurer to:

1 (a) Prevent deception of the consumer with respect to the products advertised and prohibit, irrespective
2 of falsity, such statements relating to age, origin, cultivation methods, guarantees and scientific or irrelevant
3 matters as the State Treasurer deems likely to mislead the consumer; or

4 (b) Prevent statements inconsistent with any statement on the labelling of the products advertised.

5 (4) The prohibitions contained in subsection (3) of this section and rules adopted under subsection (3) of
6 this section do not apply to the publisher of any newspaper, periodical or other publication or radio or
7 television broadcaster or cablecaster, unless such publisher or radio or television or cable broadcaster is
8 engaged in business as a cultivator, processor or trader of cannabis.

9 **SECTION 16.** All premises and activities conducted under license issued pursuant to this Act shall be
10 subject to inspection without notice during reasonable hours. Cultivating, processing and storage of cannabis
11 in violation of this Act shall be subject to search and seizure pursuant to law.

12 **SECTION 17.** (1) Any person who does any of the following for each offense shall be fined not more than
13 \$100,000, or imprisoned not more than 20 years, or both:

14 (a) Engages in business as a cultivator, processor, distributor, researcher, importer or retailer of cannabis
15 without having a current license issued in accordance with this Act.

16 (b) With intent to defraud the state purchases, receives, possesses, offers for sale or sells or otherwise
17 disposes of, after removal, any cannabis upon which the tax has not been determined in the manner and at the
18 time prescribed by this Act or rule adopted thereunder.

19 (c) With intent to defraud the state shall purchase, receive, possess, offer for sale or sell or otherwise
20 dispose of, after removal, any cannabis which is not put up in packages not bearing the marks, labels and
21 notices, as required under this section.

22 (2) Any person who possesses a quantity of cannabis in excess of quantity allowed for personal use, under
23 section 5 of this Act shall be fined not more than \$1,000.

24 (3) Any person who, with intent to defraud the state, destroys, obliterates or defaces any mark, label or
25 notice prescribed or authorized by this Act or rules adopted thereunder, to appear on, be affixed to, any
26 package of cannabis before the package is emptied, shall be fined not more than \$1,000.

27 (4) Sale or gift of any quantity of cannabis by an adult to an unrelated minor where the adult is more than
28 three years older than the minor, is punishable by a maximum penalty of life in prison.

29 **SECTION 18.** The State Treasurer and authorized agents may detain any package or other container
30 containing or supposed to contain cannabis when there is reason to believe that such cannabis has not been
31 purchased or sold in accordance with the requirements of this Act and rules adopted thereunder. Such
32 containers shall be held in a safe place until it shall be determined whether the property so detained is liable
33 by law to be proceeded against for forfeiture. Such summary detention shall not continue in any case longer
34 than 72 hours without process of law or intervention of the officer to whom such detention is reported.

35 **SECTION 19.** (1) All cannabis forfeited, summarily or by order of court, under any law of this state, shall
36 be delivered to the State Treasurer or authorized agents to be disposed of as provided in this section.

37 (2) The State Treasurer shall dispose of all cannabis which has been delivered:

38 (a) By delivery to such government agencies as have a need for such cannabis for medicinal or scientific
39 purposes, or for any other official purpose for which appropriated funds may be spent by a government
40 agency;

1 (b) By gifts to such eleemosynary institutions as, in the opinion of the State Treasurer, have a need for the
2 cannabis for medicinal or other lawful purposes; or

3 (c) By destruction.

4 (3) Except as otherwise provided by law, no cannabis which has been seized under any law of this state
5 may be disposed of in any manner whatsoever except after forfeiture and as provided in this section.

6 (4) The State Treasurer may adopt rules necessary to carry out the provisions of this section.

7 **SECTION 20.** (1) All cannabis found in any container or package required by this Act or any rule
8 adopted thereunder to bear a mark, brand or identification, not marked or identified in compliance with this
9 Act and such rules shall be forfeited to the state.

10 (2) All cannabis found in any container required by this Act or any rules adopted thereunder to bear a
11 stamp or label, not stamped or labelled in compliance with this Act or such rules, shall be forfeited to the
12 state.

13 **SECTION 21.** Whenever seizure is made of any cannabis found elsewhere than on the premises of a
14 cannabis processing plant or cannabis dealer, or than in transit from any of these places, or if any cannabis
15 found in any one of the places, or in transit therefrom, which has not been received into or sent out therefrom
16 in conformity to law, or in regard to which any of the entries required by law or rules, to be in respect of such
17 cannabis, have not been made at the time or in the manner required, or respect to which any owner or person
18 having possession, control or charge of cannabis, has omitted to do any act required to be done, or has done
19 or committed any act prohibited in regard to cannabis, the burden of proof shall be upon the claimant of the
20 cannabis to show that no fraud has been committed and that all the requirements of the law have been
21 complied with.

22 **SECTION 22.** (1) No person shall consume or otherwise use cannabis in a motor vehicle when the
23 vehicle is upon a highway.

24 (2) A person who violates this section commits a Class B traffic infraction.

25 **SECTION 23.** (1) No person shall have in the personal possession of the person, while in a motor vehicle
26 upon a highway, any receptacle containing cannabis which has been opened, or on which a seal has been
27 broken, or the contents of which have been partially removed.

28 (2) A person who violates this section commits a Class B traffic infraction.

29 **SECTION 24.** (1) It is unlawful for the registered owner of any motor vehicle, or the driver if the
30 registered owner is not then present in the vehicle, to keep in a motor vehicle when the vehicle is upon any
31 highway, any receptacle containing cannabis which has been opened, or on which a seal has been broken, or
32 the contents of which have been partially removed, unless the receptacle is kept in the trunk of the vehicle, or
33 kept in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle is not
34 equipped with a trunk.

35 (2) For the purposes of this section, a utility compartment or glove compartment is considered within the
36 area occupied by the driver and passengers. This section shall not apply to the living quarters of a camper or a
37 motor home.

38 (3) A person who violates this section commits a Class B traffic infraction.

39 **SECTION 25.** Cannabis is not subject to ORS 167.203 to 167.252, 475.005 to 475.285 or 475.991 to
40 475.995.

SECTION 26. ORS 475.505, 475.510 and 475.515 are repealed.