

D R A F T

AN ACT

1
2 Relating to marijuana; repealing ORS 475.856, 475.858, 475.860, 475.862 and
3 475.864.

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

5 **SECTION 1. The people of the State of Oregon find that:**

6 **(1) Marijuana is a benign therapeutic substance that has never**
7 **caused a single death. In 1998, Oregonians recognized the medicinal**
8 **benefits of marijuana by approving the Oregon Medical Marijuana Act.**

9 **(2) The Oregon Medical Marijuana Act has nonetheless proven in-**
10 **effective in protecting law-abiding qualified patients from arrest and**
11 **prosecution.**

12 **(3) Millions of tax dollars are spent each year to arrest, prosecute**
13 **and incarcerate Oregonians for marijuana-related offenses. Moreover,**
14 **Oregonians are at risk for the loss of employment and important par-**
15 **ental and property rights for their unprotected personal cultivation**
16 **and use of marijuana.**

17 **(4) Oregonians intend to remove all existing civil and criminal**
18 **penalties for adults 21 years of age or older who cultivate, transport,**
19 **possess or use marijuana, without affecting existing laws prohibiting**
20 **delivery of marijuana to persons under 21 years of age or driving while**
21 **under the influence of marijuana.**

22 **(5) Federal law punishes the cultivation and possession of**
23 **marijuana and will adequately protect Oregonians in the absence of**
24 **state penalties for the cultivation, transportation, possession and use**
25 **of marijuana by adults 21 years of age or older.**

1 **SECTION 2. ORS 475.856, 475.858, 475.860, 475.862 and 475.864 are re-**
2 **pealed.**

3 **SECTION 3. Sections 4, 5, 6 and 7 of this 2012 Act are added to and**
4 **made a part of ORS 475.846 to 475.894.**

5 **SECTION 4. (1) It is unlawful for any person under 21 years of age**
6 **to manufacture marijuana.**

7 **(2) Unlawful manufacture of marijuana by a person under 21 years**
8 **of age is a Class B felony.**

9 **SECTION 5. (1) It is unlawful for any person under 21 years of age**
10 **to deliver marijuana.**

11 **(2) Unlawful delivery of marijuana by a person under 21 years of**
12 **age is a:**

13 **(a) Class B felony if the delivery is for consideration.**

14 **(b) Class C felony if the delivery is for no consideration.**

15 **(3) Notwithstanding subsection (2) of this section, unlawful delivery**
16 **of marijuana by a person under 21 years of age is a:**

17 **(a) Class A misdemeanor, if the delivery is for no consideration and**
18 **consists of less than one avoirdupois ounce of the dried leaves, stems**
19 **and flowers of the plant Cannabis family Moraceae; or**

20 **(b) Violation, if the delivery is for no consideration and consists of**
21 **less than five grams of the dried leaves, stems and flowers of the plant**
22 **Cannabis family Moraceae. A violation under this paragraph is**
23 **punishable by a fine of not less than \$500 and not more than \$1,000.**
24 **Fines collected under this paragraph shall be forwarded to the De-**
25 **partment of Revenue for deposit in the Criminal Fine and Assessment**
26 **Account established in ORS 137.300.**

27 **(4) Notwithstanding subsections (2) and (3) of this section, unlawful**
28 **delivery of marijuana by a person under 21 years of age is a:**

29 **(a) Class A felony, if the delivery is to a person under 18 years of**
30 **age and the defendant is at least 18 years of age and is at least three**
31 **years older than the person to whom the marijuana is delivered; or**

1 (b) **Class C misdemeanor, if the delivery:**

2 (A) **Is for no consideration;**

3 (B) **Consists of less than five grams of the dried leaves, stems and**
4 **flowers of the plant Cannabis family Moraceae;**

5 (C) **Takes place in a public place, as defined in ORS 161.015, that is**
6 **within 1,000 feet of the real property comprising a public or private**
7 **elementary, secondary or career school attended primarily by minors;**
8 **and**

9 (D) **Is to a person who is 18 years of age or older.**

10 **SECTION 6. (1) It is unlawful for any person under 21 years of age**
11 **knowingly or intentionally to possess marijuana.**

12 (2) **Unlawful possession of marijuana by a person under 21 years of**
13 **age is a Class C felony.**

14 (3) **Notwithstanding subsection (2) of this section, unlawful pos-**
15 **session of marijuana by a person under 21 years of age is a violation**
16 **if the amount possessed is less than one avoirdupois ounce of the dried**
17 **leaves, stems and flowers of the plant Cannabis family Moraceae. A**
18 **violation under this subsection is punishable by a fine of not less than**
19 **\$500 and not more than \$1,000. Fines collected under this subsection**
20 **shall be forwarded to the Department of Revenue for deposit in the**
21 **Criminal Fine and Assessment Account established under ORS 137.300.**

22 (4) **Notwithstanding subsections (2) and (3) of this section, unlawful**
23 **possession of marijuana by a person under 21 years of age is a Class**
24 **C misdemeanor if the amount possessed is less than one avoirdupois**
25 **ounce of the dried leaves, stems and flowers of the plant Cannabis**
26 **family Moraceae and the possession takes place in a public place, as**
27 **defined in ORS 161.015, that is within 1,000 feet of the real property**
28 **comprising a public or private elementary, secondary or career school**
29 **attended primarily by minors.**

30 **SECTION 7. ORS 475.840 and 475.900 do not apply to the manufac-**
31 **ture, delivery or possession of marijuana or hashish by a person 21**

1 years of age or older.

2 **SECTION 8.** (1) Not later than January 1, 2014, the Oregon Health
3 Authority shall adopt rules that establish:

4 (a) A program for issuing licenses to individuals and entities, which
5 must include standards, procedures and fees for the issuance, suspen-
6 sion, revocation and renewal of the licenses, for:

7 (A) The cultivation and processing of marijuana for sale;

8 (B) The sale of marijuana; and

9 (C) The sale of marijuana for consumption on premises where entry
10 by individuals under 21 years of age and sale or consumption of alco-
11 holic beverages are prohibited.

12 (b) Standards for the quality and grade of marijuana to be offered
13 for sale or consumption.

14 (c) Requirements to be followed by persons licensed pursuant to this
15 section to notify consumers:

16 (A) Of the quality and grade of marijuana offered for sale or con-
17 sumption; and

18 (B) Of the potential for substance abuse by users of marijuana.

19 (d) Restrictions on the licensing of individuals for a stated period
20 after a felony conviction for the manufacture or delivery of a con-
21 trolled substance other than marijuana.

22 (e) A process for the authority to request a criminal records check
23 under ORS 181.534 on any individual seeking a license pursuant to this
24 section.

25 (f) The creation and maintenance of a confidential list that is not
26 subject to public disclosure of the persons issued a license pursuant
27 to this section.

28 (g) A system by which authorized employees of the authority and
29 of state and local law enforcement agencies may verify at all times
30 that a person holds a valid license issued pursuant to this section.

31 (h) Standards and procedures by which the authority may inspect

1 the premises, and examine the business records, equipment and
2 marijuana, of persons licensed pursuant to this section, for compliance
3 with rules adopted by the authority pursuant to this section.

4 (i) Civil penalties, in addition to any other penalties provided by
5 law, for violations of rules adopted by the authority pursuant to this
6 section.

7 (2) A license is not required for the noncommercial cultivation,
8 processing or use of marijuana.

9 (3) The authority may adopt additional rules deemed necessary by
10 the authority to carry out the provisions of this section and sections
11 4, 5, 6 and 7 of this 2012 Act.

12 (4) As used in this section, "marijuana" has the meaning given that
13 term in ORS 475.005.

14 **SECTION 9.** Compliance with rules adopted by the Oregon Health
15 Authority pursuant to section 8 of this 2012 Act constitutes a complete
16 defense to criminal actions for conduct authorized or required by the
17 rules.

18 **SECTION 10.** Local jurisdictions may adopt ordinances that regu-
19 late nuisances created by the cultivation, processing or use of
20 marijuana, provided that the ordinance does not substantially impair
21 the rights of persons 21 years of age or older to cultivate, process,
22 transport, possess or use marijuana.

23 **SECTION 11.** Section 8 of this 2012 Act becomes operative on Jan-
24 uary 1, 2014.

25 **SECTION 12.** (1) Notwithstanding section 11 of this 2012 Act, the
26 Oregon Health Authority may take any action before January 1, 2014,
27 that is necessary to enable the authority to exercise, on and after
28 January 1, 2014, all the duties, functions and powers conferred on the
29 authority by this 2012 Act.

30 (2) Notwithstanding section 11 of this 2012 Act, during the period
31 beginning on the effective date of this 2012 Act and ending January 1,

1 **2014, compliance by employees of the authority with section 8 of this**
2 **2012 Act, or rules adopted by the authority pursuant to section 8 of**
3 **this 2012 Act, constitutes a complete defense to criminal actions for**
4 **conduct of employees that:**

5 **(a) Is authorized or required by section 8 of this 2012 Act or rules**
6 **adopted by the authority pursuant to section 8 of this 2012 Act; and**

7 **(b) Occurs on or after the effective date of this 2012 Act and prior**
8 **to January 1, 2014.**

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