

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 3100

By JOINT COMMITTEE ON WAYS AND MEANS

July 1

1 On page 1 of the printed A-engrossed bill, line 10, after “2011” insert “, and sections 21, 23 and
2 80c, chapter ___, Oregon Laws 2015 (Enrolled House Bill 3400)”.

3 In line 11, after “431.530” insert “and section 80a, chapter ___, Oregon Laws 2015 (Enrolled
4 House Bill 3400)”.

5 On page 10, line 35, delete “9” and insert “17”.

6 On page 11, line 1, delete “9” and insert “17”.

7 In line 18, delete “9” and insert “17”.

8 In line 30, delete “9” and insert “17”.

9 On page 77, delete lines 17 through 28 and insert:
10

“CONFLICT AMENDMENTS

11
12

13 **“SECTION 116. If House Bill 3400 becomes law, section 80a, chapter ___, Oregon Laws**
14 **2015 (Enrolled House Bill 3400) (amending ORS 475.309), is repealed and ORS 475.309, as**
15 **amended by section 103 of this 2015 Act, is amended to read:**

16 *“475.309. [(1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or*
17 *assisting in the medical use of marijuana is excepted from the criminal laws of the state for possession,*
18 *delivery or production of marijuana, aiding and abetting another in the possession, delivery or pro-*
19 *duction of marijuana or any other criminal offense in which possession, delivery or production of*
20 *marijuana is an element if the following conditions have been satisfied:]*

21 *“[(a)(A) The person holds a registry identification card issued pursuant to this section, has applied*
22 *for a registry identification card pursuant to subsection (9) of this section, is the designated primary*
23 *caregiver of the cardholder or applicant, or is the person responsible for a marijuana grow site that*
24 *is producing marijuana for the cardholder and is registered under ORS 475.304; and]*

25 *“[(B) The person who has a debilitating medical condition, the person’s primary caregiver and the*
26 *person responsible for a marijuana grow site that is producing marijuana for the cardholder and is*
27 *registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for*
28 *medical use in amounts allowed under ORS 475.320; or]*

29 *“[(b) The person is responsible for or employed by a medical marijuana facility registered under*
30 *ORS 475.314 and does not commit any of the acts described in this subsection anywhere other than at*
31 *the medical marijuana facility.]*

32 *“[(2) The Oregon Health Authority shall establish and maintain a program for the issuance of*
33 *registry identification cards to persons who meet the requirements of this section. Except as provided*
34 *in subsection (3) of this section, the authority shall issue a registry identification card to any person*
35 *who pays a fee in the amount established by the authority and provides the following:]*

1 “(a) Valid, written documentation from the person’s attending physician stating that the person
2 has been diagnosed with a debilitating medical condition and that the medical use of marijuana may
3 mitigate the symptoms or effects of the person’s debilitating medical condition;]

4 “(b) The name, address and date of birth of the person;]

5 “(c) The name, address and telephone number of the person’s attending physician;]

6 “(d) The name and address of the person’s designated primary caregiver, if the person has desig-
7 nated a primary caregiver at the time of application; and]

8 “(e) A written statement that indicates whether the marijuana used by the cardholder will be
9 produced at a location where the cardholder or designated primary caregiver is present or at another
10 location.]

11 “(3) The authority shall issue a registry identification card to a person who is under 18 years of
12 age if the person submits the materials required under subsection (2) of this section, and the custodial
13 parent or legal guardian with responsibility for health care decisions for the person under 18 years of
14 age signs a written statement that:]

15 “(a) The attending physician of the person under 18 years of age has explained to that person and
16 to the custodial parent or legal guardian with responsibility for health care decisions for the person
17 under 18 years of age the possible risks and benefits of the medical use of marijuana;]

18 “(b) The custodial parent or legal guardian with responsibility for health care decisions for the
19 person under 18 years of age consents to the use of marijuana by the person under 18 years of age for
20 medical purposes;]

21 “(c) The custodial parent or legal guardian with responsibility for health care decisions for the
22 person under 18 years of age agrees to serve as the designated primary caregiver for the person under
23 18 years of age; and]

24 “(d) The custodial parent or legal guardian with responsibility for health care decisions for the
25 person under 18 years of age agrees to control the acquisition of marijuana and the dosage and fre-
26 quency of use by the person under 18 years of age.]

27 “(4) A person applying for a registry identification card pursuant to this section may submit the
28 information required in this section to a local health department for transmittal to the authority. A lo-
29 cal health department that receives the information pursuant to this subsection shall transmit the in-
30 formation to the authority within five days of receipt of the information. Information received by a
31 local health department pursuant to this subsection shall be confidential and not subject to disclosure,
32 except as required to transmit the information to the authority.]

33 “(5)(a) The authority shall verify the information contained in an application submitted pursuant
34 to this section and shall approve or deny an application within thirty days of receipt of the
35 application.]

36 “(b) In addition to the authority granted to the authority under ORS 475.316 to deny an applica-
37 tion, the authority may deny an application for the following reasons:]

38 “(A) The applicant did not provide the information required pursuant to this section to establish
39 the applicant’s debilitating medical condition and to document the applicant’s consultation with an at-
40 tending physician regarding the medical use of marijuana in connection with such condition, as pro-
41 vided in subsections (2) and (3) of this section;]

42 “(B) The authority determines that the information provided was falsified; or]

43 “(C) The applicant has been prohibited by a court order from obtaining a registry identification
44 card.]

45 “(c) Denial of a registry identification card shall be considered a final authority action, subject to

1 *judicial review. Only the person whose application has been denied, or, in the case of a person under*
2 *the age of 18 years of age whose application has been denied, the person's parent or legal guardian,*
3 *shall have standing to contest the authority's action.]*

4 *"[(d) Any person whose application has been denied may not reapply for six months from the date*
5 *of the denial, unless so authorized by the authority or a court of competent jurisdiction.]*

6 *"[(6)(a) If the authority has verified the information submitted pursuant to subsections (2) and (3)*
7 *of this section and none of the reasons for denial listed in subsection (5)(b) of this section is applicable,*
8 *the authority shall issue a serially numbered registry identification card within five days of verification*
9 *of the information. The registry identification card shall state:]*

10 *"[(A) The cardholder's name, address and date of birth;]*

11 *"[(B) The date of issuance and expiration date of the registry identification card;]*

12 *"[(C) The name and address of the person's designated primary caregiver, if any;]*

13 *"[(D) Whether the marijuana used by the cardholder will be produced at a location where the*
14 *cardholder or designated primary caregiver is present or at another location; and]*

15 *"[(E) Any other information that the authority may specify by rule.]*

16 *"[(b) When the person to whom the authority has issued a registry identification card pursuant to*
17 *this section has specified a designated primary caregiver, the authority shall issue an identification*
18 *card to the designated primary caregiver. The primary caregiver's registry identification card shall*
19 *contain the information provided in paragraph (a) of this subsection.]*

20 *"[(7)(a) A person who possesses a registry identification card shall:]*

21 *"[(A) Notify the authority of any change in the person's name, address, attending physician or*
22 *designated primary caregiver.]*

23 *"[(B) If applicable, notify the designated primary caregiver of the cardholder, the person responsi-*
24 *ble for the marijuana grow site that produces marijuana for the cardholder and any person responsible*
25 *for a medical marijuana facility that transfers usable marijuana or immature marijuana plants to the*
26 *cardholder under ORS 475.314 of any change in status including, but not limited to:]*

27 *"[(i) The assignment of another individual as the designated primary caregiver of the*
28 *cardholder;]*

29 *"[(ii) The assignment of another individual as the person responsible for a marijuana grow site*
30 *producing marijuana for the cardholder; or]*

31 *"[(iii) The end of the eligibility of the cardholder to hold a valid registry identification card.]*

32 *"[(C) Annually submit to the authority:]*

33 *"[(i) Updated written documentation from the cardholder's attending physician of the person's de-*
34 *bilating medical condition and that the medical use of marijuana may mitigate the symptoms or effects*
35 *of the person's debilitating medical condition; and]*

36 *"[(ii) The name of the person's designated primary caregiver if a primary caregiver has been des-*
37 *ignated for the upcoming year.]*

38 *"[(b) If a person who possesses a registry identification card fails to comply with this subsection,*
39 *the card shall be deemed expired. If a registry identification card expires, the identification card of any*
40 *designated primary caregiver of the cardholder shall also expire.]*

41 *"[(8)(a) A person who possesses a registry identification card pursuant to this section and who has*
42 *been diagnosed by the person's attending physician as no longer having a debilitating medical condi-*
43 *tion or whose attending physician has determined that the medical use of marijuana is contraindicated*
44 *for the person's debilitating medical condition shall return the registry identification card and any*
45 *other associated Oregon Medical Marijuana Program cards to the authority within 30 calendar days*

1 of notification of the diagnosis or notification of the contraindication.]

2 “[*(b) If, due to circumstances beyond the control of the registry identification cardholder, a*
3 *cardholder is unable to obtain a second medical opinion about the cardholder’s continuing eligibility*
4 *to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has*
5 *expired, the authority may grant the cardholder additional time to obtain a second opinion before re-*
6 *quiring the cardholder to return the registry identification card and any associated cards.*]

7 “[*(9) A person who has applied for a registry identification card pursuant to this section but whose*
8 *application has not yet been approved or denied, and who is contacted by any law enforcement officer*
9 *in connection with the person’s administration, possession, delivery or production of marijuana for*
10 *medical use may provide to the law enforcement officer a copy of the written documentation submitted*
11 *to the authority pursuant to subsection (2) or (3) of this section and proof of the date of mailing or other*
12 *transmission of the documentation to the authority. This documentation shall have the same legal effect*
13 *as a registry identification card until such time as the person receives notification that the application*
14 *has been approved or denied.*]

15 “[*(10)(a) A registry identification cardholder has the primary responsibility of notifying the desig-*
16 *nated primary caregiver, the person responsible for the marijuana grow site that produces marijuana*
17 *for the cardholder and any person responsible for a medical marijuana facility that transfers usable*
18 *marijuana or immature marijuana plants to the cardholder under ORS 475.314 of any change in status*
19 *of the cardholder.*]

20 “[*(b) If the authority is notified by the cardholder that a primary caregiver or person responsible*
21 *for a marijuana grow site has changed, the authority shall notify the primary caregiver or the person*
22 *responsible for the marijuana grow site by mail at the address of record confirming the change in*
23 *status and informing the caregiver or person responsible for the marijuana grow site that their card*
24 *is no longer valid and must be returned to the authority.*]

25 “[*(11) The authority shall revoke the registry identification card of a cardholder if a court has is-*
26 *sued an order that prohibits the cardholder from participating in the medical use of marijuana or*
27 *otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346. The*
28 *cardholder shall return the registry identification card to the authority within seven calendar days of*
29 *notification of the revocation. If the cardholder is a patient, the patient shall return the patient’s card*
30 *and all other associated Oregon Medical Marijuana Program cards.*]

31 “[*(12) The authority shall revoke the registration of a medical marijuana facility registered under*
32 *ORS 475.314 if a court has issued an order that prohibits the person responsible for the medical*
33 *marijuana facility from participating in the Oregon Medical Marijuana Program under ORS 475.300*
34 *to 475.346.*]

35 “[*(13) The authority and employees and agents of the authority acting within the course and scope*
36 *of their employment are immune from any civil liability that might be incurred or imposed for the*
37 *performance of or failure to perform duties required by this section.*]

38 **“(1) The Oregon Health Authority shall establish a program for the issuance of registry**
39 **identification cards to applicants who meet the requirements of this section.**

40 **“(2) The authority shall issue a registry identification card to an applicant who is 18**
41 **years of age or older if the applicant pays a fee in an amount established by the authority**
42 **by rule and submits to the authority an application containing the following information:**

43 **“(a) Written documentation from the applicant’s attending physician stating that the**
44 **attending physician has diagnosed the applicant as having a debilitating medical condition**
45 **and that the medical use of marijuana may mitigate the symptoms or effects of the**

1 applicant's debilitating medical condition;

2 "(b) The name, address and date of birth of the applicant;

3 "(c) The name, address and telephone number of the applicant's attending physician;

4 "(d) Proof of residency, as required by the authority by rule;

5 "(e) The name and address of the applicant's designated primary caregiver, if the appli-
6 cant is designating a primary caregiver under ORS 475.312; and

7 "(f) The information described in ORS 475.304 (2), if the applicant is applying to produce
8 marijuana or designate another person under ORS 475.304 to produce marijuana.

9 "(3)(a) The authority shall issue a registry identification card to an applicant who is un-
10 der 18 years of age if:

11 "(A) The applicant pays the fee and submits the application described in subsection (2)
12 of this section; and

13 "(B) The custodial parent or legal guardian who is responsible for the health care deci-
14 sions of the applicant signs and submits to the authority a written statement that:

15 "(i) The applicant's attending physician has explained to the applicant and to the custo-
16 dial parent or legal guardian the possible risks and benefits of the medical use of marijuana;

17 "(ii) The custodial parent or legal guardian consents to the medical use of marijuana by
18 the applicant;

19 "(iii) The custodial parent or legal guardian agrees to serve as the applicant's designated
20 primary caregiver; and

21 "(iv) The custodial parent or legal guardian agrees to control the acquisition, dosage and
22 frequency of the medical use of marijuana by the applicant.

23 "(b) An applicant who is under 18 years of age may not apply to produce marijuana under
24 subsection (2)(f) of this section.

25 "(4) The authority shall approve or deny an application within 30 days after receiving the
26 application.

27 "(5)(a) If the authority approves an application, the authority shall issue a serially num-
28 bered registry identification card to the applicant within five days after approving the appli-
29 cation. The registry identification card must include the following information:

30 "(A) The registry identification cardholder's name, address and date of birth;

31 "(B) The issuance date and expiration date of the registry identification card;

32 "(C) If the registry identification cardholder designated a primary caregiver under ORS
33 475.312, the name and address of the registry identification cardholder's designated primary
34 caregiver; and

35 "(D) Any other information required by the authority by rule.

36 "(b) If the registry identification cardholder designated a primary caregiver under ORS
37 475.312, the authority shall issue an identification card to the designated primary caregiver.
38 The identification card must contain the information required by paragraph (a) of this sub-
39 section.

40 "(6) A registry identification cardholder shall:

41 "(a) In a form and manner prescribed by the authority, notify the authority of any
42 change concerning the registry identification cardholder's:

43 "(A) Name, address or attending physician;

44 "(B) Designated primary caregiver, including the designation of a primary caregiver made
45 at a time other than at the time of applying for or renewing a registry identification card;

1 or

2 “(C) Person responsible for a marijuana grow site, including the designation of a person
3 responsible for a marijuana grow site made at a time other than at the time of applying for
4 or renewing a registry identification card.

5 “(b) Annually renew the registry identification card by paying a fee in an amount estab-
6 lished by the authority by rule and submitting to the authority an application that contains
7 the following information:

8 “(A) Updated written documentation from the registry identification cardholder’s at-
9 tending physician stating that the registry identification cardholder still has a debilitating
10 medical condition and that the medical use of marijuana may mitigate the symptoms or ef-
11 fects of the registry identification cardholder’s debilitating medical condition;

12 “(B) The information described in subsection (2)(b) to (f) of this section; and

13 “(C) If the registry identification cardholder is under 18 years of age, a statement signed
14 by the custodial parent or legal guardian of the registry identification cardholder that meets
15 the requirements of subsection (3) of this section.

16 “(7)(a) If the registry identification cardholder’s attending physician determines that the
17 registry identification cardholder no longer has a debilitating medical condition or deter-
18 mines that the medical use of marijuana is contraindicated for the registry identification
19 cardholder’s debilitating medical condition, the registry identification cardholder shall return
20 the registry identification card to the authority within 30 calendar days after receiving notice
21 of the determination.

22 “(b) If, because of circumstances beyond the control of the registry identification
23 cardholder, a registry identification cardholder is unable to obtain a second medical opinion
24 about the registry identification cardholder’s continuing eligibility for the medical use of
25 marijuana before having to return the registry identification card to the authority, the au-
26 thority may grant the registry identification cardholder additional time to obtain a second
27 medical opinion.

28 “(8)(a) The authority may deny an application for a registry identification card or an
29 application to renew a registry identification card, or may suspend or revoke a registry
30 identification card, if:

31 “(A) The applicant or registry identification cardholder does not provide the information
32 required by this section;

33 “(B) The authority determines that the applicant or registry identification cardholder
34 provided false information; or

35 “(C) The authority determines that the applicant or registry identification cardholder
36 violated a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.

37 “(b) If a registry identification card is revoked, any associated identification card issued
38 under subsection (5)(b) of this section, or marijuana grow site registration card issued under
39 ORS 475.304 (6), shall also be revoked.

40 “(c) A person whose application is denied, or whose registry identification card is re-
41 voked, under this subsection may not reapply for a registry identification card for six months
42 from the date of the denial or revocation unless otherwise authorized by the authority.

43 “(9)(a) The authority may deny a designation of a primary caregiver made under ORS
44 475.312, or suspend or revoke an associated identification card issued under subsection (5)(b)
45 of this section, if the authority determines that the designee or the registry identification

1 cardholder violated a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300
2 to 475.346.

3 “(b) A person whose designation has been denied, or whose identification card has been
4 revoked, under this subsection may not be designated as a primary caregiver under ORS
5 475.312 for six months from the date of the denial or revocation unless otherwise authorized
6 by the authority.

7 “(10) Notwithstanding subsection (2) or (6)(b) of this section, if an applicant for a registry
8 identification card, or a registry identification cardholder applying for renewal of a registry
9 identification card, submits to the authority proof of having served in the Armed Forces of
10 the United States and of having been diagnosed with post-traumatic stress disorder, the au-
11 thority may not impose a fee that is greater than \$20 for the issuance or renewal of the
12 registry identification card.

13 “**SECTION 117.** The amendments to ORS 475.309 by section 116 of this 2015 Act become
14 operative on the date specified in section 179, chapter ___, Oregon Laws 2015 (Enrolled House
15 Bill 3400).

16 “**SECTION 118.** If House Bill 3400 becomes law, section 80c, chapter ___, Oregon Laws 2015
17 (Enrolled House Bill 3400), is amended to read:

18 “**Sec. 80c.** The amendments to ORS 475.309 and 475.312 by [sections 80a and 80b of this 2015
19 Act] section 116 of this 2015 Act and section 80b, chapter ___, Oregon Laws 2015 (Enrolled
20 House Bill 3400), apply to:

21 “(1) Applications received by the Oregon Health Authority for a registry identification card on
22 or after the operative date specified in section 179 [of this 2015 Act], chapter ___, Oregon Laws
23 2015 (Enrolled House Bill 3400);

24 “(2) Applications received by the authority to renew a registry identification card on or after
25 the operative date specified in section 179 [of this 2015 Act], chapter ___, Oregon Laws 2015
26 (Enrolled House Bill 3400); and

27 “(3) Registry identification cards updated by the authority on or after the operative date speci-
28 fied in section 179 [of this 2015 Act], chapter ___, Oregon Laws 2015 (Enrolled House Bill 3400).

29 “**SECTION 119.** If House Bill 3400 becomes law, section 21, chapter ___, Oregon Laws 2015
30 (Enrolled House Bill 3400), is amended to read:

31 “**Sec. 21.** (1) Except as provided in subsection (2) of this section, the Oregon Liquor Control
32 Commission may require a person that holds a license under section 22, chapter 1, Oregon Laws
33 2015, to maintain on file with the commission a bond with a corporate surety authorized to transact
34 business in this state. The bond shall be in a form acceptable to the commission and shall be in
35 an amount that the commission determines is reasonably affordable and available. The bond is pay-
36 able to the commission if the licensee fails to pay any tax imposed on the [retail] sale of marijuana
37 items as required by state law.

38 “(2) In lieu of maintaining the bond required by subsection (1) of this section, a person that
39 holds a license under section 22, chapter 1, Oregon Laws 2015, may deposit in a bank or trust
40 company for the benefit of the commission an equivalent amount in cash, letters of credit recognized
41 by the State Treasurer or negotiable securities of a character approved by the State Treasurer. In-
42 terest earned on deposited funds or securities shall accrue to the person that made the deposit.

43 “**SECTION 120.** If House Bill 3400 becomes law, section 23, chapter ___, Oregon Laws 2015
44 (Enrolled House Bill 3400), is amended to read:

45 “**Sec. 23.** (1) The Oregon Liquor Control Commission shall develop and maintain a system for

1 tracking the transfer of marijuana items between licensed premises.

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

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

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

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

8 “(d) Ensuring that taxes are collected for the purpose of being distributed as described in sec-
9 tion 44, chapter 1, Oregon Laws 2015;

10 “(e) Ensuring that laboratory testing results are accurately reported; and

11 “(f) Ensuring compliance with the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015,
12 rules adopted under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and any other
13 law of this state that charges the commission with a duty, function or power related to marijuana.

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

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

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

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

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

21 “(e) The purchase and sale of marijuana items between licensees, as permitted by sections 3 to
22 70, chapter 1, Oregon Laws 2015;

23 “(f) The transfer of marijuana items between licensed premises; **and**

24 “[g] *The collection of taxes imposed upon the retail sale of marijuana items under section 70 of*
25 *this 2015 Act; and]*

26 “[h] (g) Any other information that the commission determines is reasonably necessary to ac-
27 complish the duties, functions and powers of the commission under sections 3 to 70, chapter 1,
28 Oregon Laws 2015.

29
30 **“UNIT CAPTIONS**

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32 **“SECTION 121. The unit captions used in this 2015 Act are provided only for the con-
33 venience of the reader and do not become part of the statutory law of this state or express
34 any legislative intent in the enactment of this 2015 Act.**

35
36 **“EMERGENCY CLAUSE**

37
38 **“SECTION 122. This 2015 Act being necessary for the immediate preservation of the
39 public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes
40 effect on its passage.”.**