SB 844-3 (LC 3926) 4/7/15 (MBM/ps)

## PROPOSED AMENDMENTS TO SENATE BILL 844

In line 2 of the printed bill, after the semicolon delete the rest of the line and insert "creating new provisions; and amending ORS 475.314 and section 5, chapter 1, Oregon Laws 2015.".

4 Delete lines 4 through 14 and insert:

5 "SECTION 1. As used in sections 1 to 9 of this 2015 Act:

"(1) 'Cannabinoid edible' means food or potable liquid into which a
cannabinoid extract or the dried leaves or flowers of marijuana have
been incorporated.

9 "(2) 'Cannabinoid extract' means a product containing cannabinoids
10 that have been separated from marijuana by chemical or mechanical
11 processes.

"(3)(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.

"(4)(a) 'Marijuana product' means a cannabinoid edible, a
 cannabinoid extract or any other product into which cannabinoids or
 the dried leaves or flowers of marijuana have been incorporated.

"(b) 'Marijuana product' does not include industrial hemp, as de fined in ORS 571.300.

22 "(5) 'Processing' means the conversion of marijuana into marijuana

1 products.

"(6) 'Production' means planting, cultivating, growing, trimming
 and harvesting marijuana and drying marijuana leaves and flowers.

4 "(7) 'Usable marijuana' means the dried leaves and flowers of 5 marijuana and any mixture or preparation of the dried leaves and 6 flowers of marijuana, including any marijuana product, that is appro-7 priate for use as allowed in ORS 475.300 to 475.346 or sections 3 to 70, 8 chapter 1, Oregon Laws 2015.

9 "SECTION 2. (1) Sections 1 to 9 of this 2015 Act and rules adopted 10 under sections 1 to 9 of this 2015 Act shall serve as the basis for es-11 tablishing the minimum standards for labeling and packaging usable 12 marijuana in this state as required under ORS 475.300 to 475.346 and 13 section 50, chapter 1, Oregon Laws 2015.

"(2) Sections 1 to 9 of this 2015 Act do not prevent the Oregon Health Authority or the Oregon Liquor Control Commission from establishing additional minimum standards for labeling and packaging usable marijuana, or from establishing minimum standards for producing or processing marijuana or usable marijuana, if the authority or commission is otherwise authorized under the laws of this state to establish those standards.

"SECTION 3. The Oregon Health Authority shall require all usable 21marijuana transferred by a person registered under ORS 475.314, and 22the Oregon Liquor Control Commission shall require all usable 23marijuana sold by a marijuana retailer that holds a license under 24section 22, chapter 1, Oregon Laws 2015, to have been labeled and 25packaged in a manner that ensures the public health and safety. La-26beling and packaging usable marijuana as required by this section 27must be done in accordance with section 4 of this 2015 Act. 28

<sup>29</sup> "<u>SECTION 4.</u> (1) The Oregon Liquor Control Commission, in con-<sup>30</sup> sultation with the Oregon Health Authority, shall adopt rules establishing minimum standards for labeling and packaging usable
 marijuana. At a minimum, rules adopted under this section shall:

"(a) Ensure that the dried leaves and flowers of marijuana,
cannabinoid edibles, cannabinoid extracts and other marijuana products, as determined necessary by the commission, are packaged in
child-resistant safety packaging;

"(b) Ensure that the dried leaves and flowers of marijuana,
cannabinoid edibles, cannabinoid extracts and other marijuana products, as determined necessary by the commission, are not marketed
in a manner that is untruthful or misleading, or that otherwise creates a significant risk to public health and safety;

"(c) Ensure that cannabinoid edibles and other marijuana products,
 as determined necessary by the commission, are not processed or
 packaged in a manner that is attractive to minors;

"(d) Ensure that cannabinoid edibles and other marijuana products,
 as determined necessary by the commission, are not marketed in a
 manner that is attractive to minors;

"(e) Ensure that cannabinoid edibles, cannabinoid extracts and other marijuana products, as determined necessary by the commission, contain an amount of cannabinoid per serving, or a ratio of cannabidiol to tetrahydrocannabinol, that is fit for consumption, as determined by the commission by rule; and

"(f) Ensure that cannabinoid edibles are labeled in accordance with any state or federal law, rule or regulation prescribing a labeling requirement for the same type of food product or potable liquid when the food product or potable liquid does not contain marijuana or cannabinoids.

28 "(2) In adopting rules under subsection (1) of this section, the 29 commission:

30 "(a) May establish different minimum standards for different vari-

1 eties of marijuana or for different types of marijuana products;

"(b) May establish different procedures and standards for persons
registered under ORS 475.300 to 475.346 and persons licensed under
sections 3 to 70, chapter 1, Oregon Laws 2015;

"(c) Shall consider the cost of a potential requirement and the feasibility that a person registered under ORS 475.300 to 475.346 or a persons licensed under sections 3 to 70, chapter 1, Oregon Laws 2015, can
afford to comply with the requirement; and

9 "(d) May not adopt rules that are more restrictive than is necessary
10 to protect the public health and safety.

"SECTION 5. Sections 1 to 9 of this 2015 Act do not apply to a person responsible for a marijuana grow site under ORS 475.304 who transfers marijuana or usable marijuana to a person who holds a registry identification card issued under ORS 475.309 or a person who has been designated as a registry identification cardholder's primary caregiver under ORS 475.312.

17 "<u>SECTION 6.</u> (1) The Oregon Health Authority may inspect the 18 premises of a marijuana grow site registered under ORS 475.304 or a 19 medical marijuana facility registered under ORS 475.314 to ensure 20 compliance with sections 1 to 9 of this 2015 Act and any rule adopted 21 under sections 1 to 9 of this 2015 Act.

"(2) The Oregon Liquor Control Commission may inspect the
premises of a person who holds a license under section 19, 20, 21 or 22,
chapter 1, Oregon Laws 2015, to ensure compliance with sections 1 to
9 of this 2015 Act and any rule adopted under sections 1 to 9 of this
2015 Act.

"(3) The state police, sheriffs and other police officers within this
state shall assist the authority and the commission in enforcing
sections 1 to 9 of this 2015 Act and any rule adopted under sections 1
to 9 of this 2015 Act. A member of the state police, a sheriff or any

other police officer who has notice, knowledge or reasonable ground of suspicion of a violation of sections 1 to 9 of this 2015 Act or of a rule adopted under sections 1 to 9 of this 2015 Act shall immediately notify the district attorney of the county in which the violation occurred and furnish the district attorney with any information related to the violation, including the name and address of any witness to the violation.

"(4) The authority and the commission may enter into an agreement whereby the commission conducts inspections on behalf of the
authority under this section.

"SECTION 7. Subject to the applicable provisions of ORS chapter
 183:

"(1) The Oregon Health Authority may refuse to register a person under ORS 475.304 or 475.314, may suspend activities conducted by a registrant pursuant to ORS 475.304 or 475.314, or may remove a registrant from a registry kept pursuant to ORS 475.304 or 475.314, if the person violates any provision of sections 1 to 9 of this 2015 Act or any rule adopted under sections 1 to 9 of this 2015 Act.

"(2) The Oregon Liquor Control Commission may refuse to issue or
renew, or may suspend or revoke, a license issued under section 19,
20, 21 or 22, chapter 1, Oregon Laws 2015, if the applicant or licensee
violates a provision of sections 1 to 9 of this 2015 Act or any rule
adopted under sections 1 to 9 of this 2015 Act.

23 "<u>SECTION 8.</u> In addition to any other liability or penalty provided
24 by law:

"(1)(a) The Oregon Health Authority may impose for each violation of a provision of sections 1 to 9 of this 2015 Act, or a rule adopted under a provision of sections 1 to 9 of this 2015 Act, a civil penalty that does not exceed \$5,000 for each day that the violation occurs. The authority shall impose civil penalties under this subsection in the manner provided by ORS 183.745. (b) Moneys collected under this subsection shall be deposited in the
Oregon Health Authority Fund established under ORS 413.101 and are
continuously appropriated to authority for the purpose of carrying out
the duties, functions and powers of the authority under sections 1 to
9 of this 2015 Act.

6 "(2)(a) The Oregon Liquor Control Commission may impose for each 7 violation of a provision of sections 1 to 9 of this 2015 Act, or a rule 8 adopted under a provision of sections 1 to 9 of this 2015 Act, a civil 9 penalty that does not exceed \$5,000 for each day that the violation oc-10 curs. The commission shall impose civil penalties under this sub-11 section in the manner provided by ORS 183.745.

(b) Moneys collected under this subsection shall be deposited in the
 Marijuana Packaging and Labeling Fund established under section 9
 of this 2015 Act.

"SECTION 9. The Marijuana Packaging and Labeling Fund is es-15tablished in the State Treasury, separate and distinct from the General 16 Fund. The Marijuana Packaging and Labeling Fund shall consist of 17 all moneys collected by the Oregon Liquor Control Commission under 18 sections 1 to 9 of this 2015 Act. Interest earned by the fund shall be 19 credited to the fund. Moneys in the fund are continuously appropriated 20to the commission to administer and enforce sections 1 to 9 of this 2015 21Act. 22

"SECTION 10. ORS 475.314, as amended by section 5, chapter 79, Oregon
Laws 2014, is amended to read:

"475.314. (1) The Oregon Health Authority shall establish by rule a med ical marijuana facility registration system to authorize the transfer of usable
 marijuana and immature marijuana plants from:

"(a) A registry identification cardholder, the designated primary caregiver
 of a registry identification cardholder, or a person responsible for a
 marijuana grow site to the medical marijuana facility; or

1 "(b) A medical marijuana facility to a registry identification cardholder 2 or the designated primary caregiver of a registry identification cardholder.

"(2) The registration system established under subsection (1) of this section must require a medical marijuana facility to submit an application to
the authority that includes:

6 "(a) The name of the person responsible for the medical marijuana facil-7 ity;

8 "(b) The address of the medical marijuana facility;

9 "(c) Proof that the person responsible for the medical marijuana facility 10 is a resident of Oregon;

"(d) Documentation, as required by the authority by rule, that demonstrates the medical marijuana facility meets the qualifications for a medical marijuana facility as described in subsection (3) of this section; and

<sup>14</sup> "(e) Any other information that the authority considers necessary.

"(3) To qualify for registration under this section, a medical marijuanafacility:

"(a) Must be located in an area that is zoned for commercial, industrial
or mixed use or as agricultural land;

19 "(b) May not be located at the same address as a marijuana grow site;

"(c) Must be registered as a business or have filed a pending application
to register as a business with the Office of the Secretary of State;

"(d) Must not be located within 1,000 feet of the real property comprising
a public or private elementary, secondary or career school attended primarily
by minors;

"(e) Must not be located within 1,000 feet of another medical marijuana
 facility; and

27 "(f) Must comport with rules adopted by the authority related to:

"(A) Installing a minimum security system, including a video surveillance
system, alarm system and safe; and

30 "(B) Testing for pesticides, mold and mildew and the processes by which

SB 844-3 4/7/15 Proposed Amendments to SB 844 usable marijuana and immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the registry identification
cardholder, the cardholder's designated primary caregiver or the cardholder's
registered grower.

"(4)(a) The authority shall conduct a criminal records check under ORS
181.534 of a person whose name is submitted as the person responsible for a
medical marijuana facility under subsection (2) of this section.

8 "(b) A person convicted for the manufacture or delivery of a controlled 9 substance in Schedule I or Schedule II may not be the person responsible for 10 a medical marijuana facility for five years from the date the person is con-11 victed.

"(c) A person convicted more than once for the manufacture or delivery
 of a controlled substance in Schedule I or Schedule II may not be the person
 responsible for a medical marijuana facility.

"(5) If a person submits the application required under subsection (2) of 15this section, the medical marijuana facility identified in the application 16 meets the qualifications for a medical marijuana facility described in sub-17 section (3) of this section and the person responsible for the medical 18 marijuana facility passes the criminal records check required under sub-19 section (4) of this section, the authority shall register the medical marijuana 20facility and issue the person responsible for the medical marijuana facility 21proof of registration. The person responsible for the medical marijuana fa-22cility shall display the proof of registration on the premises of the medical 23marijuana facility at all times when usable marijuana or immature 24marijuana plants are being transferred as described in subsection (1) of this 25section. 26

"(6)(a) A registered medical marijuana facility may receive usable marijuana or immature marijuana plants only from a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site if the registered medical marijuana facility obtains authorization, on a form prescribed by the authority by rule and signed by a
registry identification cardholder, to receive the usable marijuana or immature marijuana plants.

4 "(b) A registered medical marijuana facility shall maintain:

5 "(A) A copy of each authorization form described in paragraph (a) of this 6 subsection; and

7 "(B) Documentation of each transfer of usable marijuana or immature
8 marijuana plants.

9 "(7) A medical marijuana facility registered under this section may pos-10 sess usable marijuana and immature marijuana plants in excess of the limits 11 imposed on registry identification cardholders and designated primary 12 caregivers under ORS 475.320.

"[(8)(a) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant safety packaging that meets standards established by the authority by rule.]

"[(b) A registered medical marijuana facility may not transfer any
tetrahydrocannabinol-infused product that is manufactured or packaged in a
manner that is attractive to minors, as determined by the authority by rule.]
"[(9)] (8) The authority may inspect:

"(a) The premises of an applicant for a medical marijuana facility or a registered medical marijuana facility to ensure compliance with the qualifications for a medical marijuana facility described in subsection (3) of this section; and

25 "(b) The records of a registered medical marijuana facility to ensure 26 compliance with subsection (6)(b) of this section.

"[(10)(a)] (9)(a) A registry identification cardholder or the designated primary caregiver of a registry identification cardholder may reimburse a medical marijuana facility registered under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable
marijuana and immature marijuana plants and the cost of supplies, utilities
and rent or mortgage.

"(b) A medical marijuana facility may reimburse a person responsible for
a marijuana grow site under this section for the normal and customary costs
of doing business, including costs related to transferring, handling, securing,
insuring, testing, packaging and processing usable marijuana and immature
marijuana plants and the cost of supplies, utilities and rent or mortgage.

9 "[(11)] (10) The authority may revoke the registration of a medical 10 marijuana facility registered under this section for failure to comply with 11 ORS 475.300 to 475.346, rules adopted under ORS 475.300 to 475.346 or ordi-12 nances adopted pursuant to section 2, chapter 79, Oregon Laws 2014. The 13 authority may release to the public a final order revoking a medical 14 marijuana facility registration.

"[(12)] (11) The authority shall adopt rules to implement this section, in cluding rules that:

"(a) Require a medical marijuana facility registered under this section to
 annually renew that registration; and

"(b) Establish fees for registering and renewing registration for a medical
 marijuana facility under this section.

"<u>SECTION 11.</u> Section 5, chapter 1, Oregon Laws 2015, is amended to read:

"Sec. 5. As used in sections 3 to 70, chapter 1, Oregon Laws 2015 [of
this Act]:

<sup>25</sup> "(1) 'Authority' means the Oregon Health Authority.

<sup>26</sup> "(2) 'Commission' means the Oregon Liquor Control Commission.

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

<sup>29</sup> "(4) 'Department' means the State Department of Agriculture.

30 "(5)(a) ['Financial consideration,' except as provided in paragraph (b) of

SB 844-3 4/7/15 Proposed Amendments to SB 844 this subsection,] 'Financial consideration' means value that is given or received directly or indirectly through sales, barter, trade, fees, charges, dues,
contributions or donations.

4 "(b) 'Financial consideration' does not mean any of the following:

5 "(A) Homegrown marijuana made by another person.

6 "(B) Homemade marijuana products made by another person.

"(6) 'Homegrown' or 'homemade' means grown or made by a person 21
years of age or older for noncommercial purposes.

9 "(7) 'Household' means a housing unit[,] and [*includes*] any place in or 10 around the housing unit at which the occupants of the housing unit are 11 producing, processing, keeping[,] or storing homegrown marijuana or home-12 made marijuana products.

"(8) '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 [*which have*] **that has** direct access from the outside of the building or through a common hall.

"(9) 'Immature marijuana plant' means a marijuana plant with no ob servable flowers or buds.

"(10) 'Licensee' means any person holding a license issued under sections
3 to 70, chapter 1, Oregon Laws 2015 [this Act], or any person holding a
license or permit issued under any [regulation promulgated] rule adopted
under section 7 (2)(e), chapter 1, Oregon Laws 2015 [paragraph (e) of
subsection (2) of section 7 of this Act].

"(11) 'Licensee representative' means an owner, director, officer, manager,
employee, agent[,] or other representative of a licensee, to the extent [*such*]
the person acts in [*such*] a representative capacity.

<sup>28</sup> "(12)(a) 'Marijuana' means all parts of the plant Cannabis family <sup>29</sup> Moraceae, whether growing or not, other than marijuana extracts.

30 "(b) 'Marijuana' does not include industrial hemp, as defined in ORS

1 571.300, or industrial hemp commodities or products.

"(13) 'Marijuana extract' means a product obtained by separating resins
from marijuana by solvent extraction, using solvents other than vegetable
glycerin, such as butane, hexane, isopropyl alcohol, ethanol[,] and carbon
dioxide.

6 "(14)(a) 'Marijuana flowers' means the flowers of the plant Cannabis 7 family Moraceae.

8 "(b) 'Marijuana flowers' does not include any part of the plant other than9 the flowers.

10 "(15) 'Marijuana items' means marijuana, marijuana products[,] and 11 marijuana extracts.

"(16)(a) 'Marijuana leaves' means the leaves of the plant Cannabis family
 Moraceae.

"(b) 'Marijuana leaves' does not include any part of the plant other thanthe leaves.

"(17) 'Marijuana processor' means a person who processes marijuana
 items in this state.

"(18) 'Marijuana producer' means a person who produces marijuana inthis state.

20 "(19)(a) 'Marijuana products' means products that contain marijuana or 21 marijuana extracts and are intended for human consumption.

22 "(b) 'Marijuana products' does not mean:

23 "(A) Marijuana, by itself; or

<sup>24</sup> "(B) A marijuana extract, by itself.

"(20) 'Marijuana retailer' means a person who sells marijuana items to a
 consumer in this state.

"(21) 'Marijuana wholesaler' means a person who purchases marijuana
items in this state for resale to a person other than a consumer in this state.
"(22) 'Mature marijuana plant' means any marijuana plant that is not an
immature marijuana plant.

1 "(23) 'Noncommercial' means not dependent or conditioned upon the pro-2 vision or receipt of financial consideration.

"(24) 'Person' means any natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit
unincorporated association, business trust, limited liability company, general
or limited partnership, joint venture[,] or any other legal entity.

"(25) 'Premises' or 'licensed premises' means a location licensed under
sections 3 to 70, chapter 1, Oregon Laws 2015, [of this Act] and includes:

9 "(a) All enclosed areas at the location that are used in the business op-10 erated at the location, including offices, kitchens, rest rooms and storerooms, 11 including all public and private areas;

"(b) All areas outside [*of*] a building that the Oregon Liquor Control Commission has specifically licensed for the production, 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 [*of*] a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases[,] or has a right to occupy.

19 "(26)(a) 'Processes' means:

20 "(A) The processing, compounding[,] or conversion of marijuana into 21 marijuana products or marijuana extracts; **or** 

"(B) The processing, compounding[,] or conversion of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis[;].

26 "[(C) The packaging or repackaging of marijuana items; or]

27 "[(D) The labeling or relabeling of any package or container of marijuana 28 items.]

29 "(b) 'Processes' does not include[:]

[(A)] the drying of marijuana by a marijuana producer, if the marijuana

SB 844-3 4/7/15 Proposed Amendments to SB 844 1 producer is not otherwise processing marijuana; or

2 "[(B) The packaging and labeling of marijuana by a marijuana producer 3 in preparation for delivery to a marijuana processor.]

4 "(27)(a) 'Produces' means the manufacture, planting, cultivation, 5 growing[,] or harvesting of marijuana.

6 "(b) 'Produces' does not include:

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

9 "(B) The cultivation and growing of an immature marijuana plant by a 10 marijuana processor, marijuana wholesaler[,] or marijuana retailer if the 11 marijuana processor, marijuana wholesaler[,] or marijuana retailer purchased 12 or otherwise received the plant from a licensed marijuana producer.

"(28) '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 [*premises*] **areas** used in connection with public passenger transportation.

"(29) 'Usable marijuana' means dried marijuana flowers and dried
 marijuana leaves, and any mixture or preparation [*thereof*] of the flowers
 or leaves.

"<u>SECTION 12.</u> The rules of the Oregon Health Authority adopted
under ORS 475.314 (8) before the effective date of this 2015 Act continue
in effect until superseded or repealed by rules of the Oregon Liquor
Control Commission adopted under section 4 of this 2015 Act.".

26