

Enrolled Senate Bill 96

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CHAPTER

AN ACT

Relating to cannabis; creating new provisions; amending ORS 475B.025, 475B.550, 475B.555, 475B.560, 475B.565, 475B.600, 475B.605, 475B.610 and 571.330; and prescribing an effective date.

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

SECTION 1. ORS 475B.025 is amended to read:

475B.025. (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.

(g) To establish pilot programs, of not more than three years in duration, to expand access to marijuana for medical use for registry identification cardholders and designated primary caregivers, as defined in ORS 475B.791.

(h) To regulate the testing and labeling of inhalant delivery systems, as defined in ORS 431A.175, that include industrial hemp-derived vapor items, as defined in ORS 475B.550, that are sold in this state by any person.

(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.

SECTION 2. ORS 475B.550 is amended to read:

475B.550. 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 571.269*].

(5) "Industrial hemp" has the meaning given that term in ORS 571.269.

(6) "Industrial hemp-derived vapor item" means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269, whether alone or combined with other substances, that is intended for use in an inhalant delivery system.

(7) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.

[(5)(a)] **(8)(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:

(A) Industrial hemp[, *as defined in ORS 571.269*]; or

(B) Prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United States Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.

[(6)] **(9)** "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

[(7)] **(10)** "Processing" means:

(a) The compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(b) The compounding or conversion of industrial hemp into industrial hemp concentrates or industrial hemp extracts.

[8] (11) “Producing” means:

- (a) Planting, cultivating, growing, trimming or harvesting marijuana; or
- (b) Drying marijuana leaves and flowers.

[9](a) (12)(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.

SECTION 3. ORS 475B.555 is amended to read:

475B.555. (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 **and industrial hemp-derived vapor items**.

(b) Identifying appropriate tests for marijuana items **and industrial hemp-derived vapor items**, depending on the type of marijuana item **or industrial hemp-derived vapor item** and the manner in which the marijuana item **or industrial hemp-derived vapor 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 **and industrial hemp-derived vapor items**.

(d) Establishing different minimum standards for different varieties of usable marijuana and different types of cannabinoid products and cannabinoid concentrates and extracts **and, as appropriate, industrial hemp-derived vapor items**.

(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 **or industrial hemp-delivered vapor 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 **or industrial hemp-derived vapor item** to undergo the same test more than once unless the marijuana item **or industrial hemp-derived vapor item** is processed into a different type of marijuana item **or industrial hemp-derived vapor item** or the condition of the marijuana item **or industrial hemp-derived vapor item** has fundamentally changed.

(7) The testing of marijuana items **and industrial hemp-derived vapor 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 **or industrial hemp-derived vapor item**; and

(b) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

SECTION 4. ORS 475B.560 is amended to read:

475B.560. (1) A laboratory that conducts testing of marijuana items **or industrial hemp-derived vapor items** as required by ORS 475B.555 must have a license to operate at the premises at which the marijuana items **or industrial hemp-derived vapor 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 accredited 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 **or industrial hemp-derived vapor items** to be tested;

(B) Documenting and reporting test results; and

(C) Disposing of samples of usable marijuana, cannabinoid products [*and*], cannabinoid concentrates or extracts **or industrial hemp-derived vapor items** 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.

SECTION 5. ORS 475B.565 is amended to read:

475B.565. (1) A laboratory that conducts testing of marijuana items **or industrial hemp-derived vapor 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 **or industrial hemp-derived vapor items** to:

(a) Complete an application;

- (b) Undergo an onsite inspection; and
 - (c) Meet other applicable requirements, specifications and guidelines for testing marijuana items **or industrial hemp-derived vapor items**, as determined to be appropriate by the authority by rule.
- (3) The authority may inspect premises licensed under ORS 475B.560 to ensure compliance 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 **or industrial hemp-derived vapor 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 438.620 in accrediting laboratories that test marijuana items **or industrial hemp-derived vapor items**.

SECTION 6. Section 7 of this 2021 Act is added to and made a part of ORS 475B.550 to 475B.590.

SECTION 7. (1) If a person violates a provision of ORS 475B.550 to 475B.590 or a rule adopted under ORS 475B.550 to 475B.590 with regard to an industrial hemp-derived vapor item:

(a) The State Department of Agriculture may impose disciplinary action described in ORS 571.285 and impose a civil penalty under ORS 571.348 if the person is a grower or handler registered under ORS 571.281.

(b) The Oregon Liquor Control Commission may impose a civil penalty under ORS 475B.655 if the person is not a grower or handler registered under ORS 571.281.

(2) The commission and the department may adopt rules to carry out this section.

SECTION 8. ORS 475B.600 is amended to read:

475B.600. 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 571.269*].

(5) "**Industrial hemp**" has the meaning given that term in ORS 571.269.

(6) "**Industrial hemp-derived vapor item**" means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269, whether alone or combined with other substances, that is intended for use in an inhalant delivery system.

(7) "**Inhalant delivery system**" has the meaning given that term in ORS 431A.175.

[*(5)(a)*] (8)(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:

(A) Industrial hemp[, *as defined in ORS 571.269*]; or

(B) Prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United States Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.

[(6)] **(9)** “Marijuana item” means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

[(7)] **(10)** “Processing” means:

(a) The compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(b) The compounding or conversion of industrial hemp into industrial hemp concentrates or industrial hemp extracts.

[(8)] **(11)** “Producing” means:

(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

(b) Drying marijuana leaves and flowers.

[(9)(a)] **(12)(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.

SECTION 9. ORS 475B.605 is amended to read:

475B.605. (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 **and inhalant delivery systems that contain industrial hemp-derived vapor items**, including but not limited to:

(a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles [*and*], other cannabinoid products **and inhalant delivery systems that contain industrial hemp-derived vapor items** 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 **or inhalant delivery system that contains an industrial hemp-derived vapor 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 **and for inhalant delivery systems that contain industrial hemp-derived vapor items**;

(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 **or inhalant delivery system that contains an industrial hemp-derived vapor item**; and

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

SECTION 10. ORS 475B.610 is amended to read:

475B.610. (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 **or person responsible for the labeling of an inhalant delivery system that contains an industrial hemp-derived vapor item**, and the Oregon Health Authority may by rule require a registrant, to submit a label intended for use on a marijuana item **or an inhalant delivery system that contains an industrial hemp-derived vapor item** for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item **or an inhalant delivery system that contains an industrial hemp-derived vapor 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.

SECTION 11. Section 12 of this 2021 Act is added to and made a part of ORS 475B.600 to 475B.655.

SECTION 12. (1) If a person violates a provision of ORS 475B.600 to 475B.655 or a rule adopted under ORS 475B.600 to 475B.655 with regard to an industrial hemp-derived vapor item:

(a) The State Department of Agriculture may impose disciplinary action described in ORS 571.285 and impose a civil penalty under ORS 571.348 if the person is a grower or handler registered under ORS 571.281.

(b) The Oregon Liquor Control Commission may impose a civil penalty under ORS 475B.655 if the person is not a grower or handler registered under ORS 571.281.

(2) The commission and the department may adopt rules to carry out this section.

SECTION 13. ORS 571.330 is amended to read:

571.330. (1) For purposes of this section, "consumption" means [to ingest, inhale or topically apply] **ingestion, inhalation or topical application** to the skin or hair.

(2)(a) A laboratory licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority pursuant to ORS 475B.565 may test industrial hemp and industrial hemp commodities and products produced or processed by a grower, handler or agricultural hemp seed producer registered under ORS 571.281.

(b) An accredited independent testing laboratory that has been approved by the authority or the State Department of Agriculture may test industrial hemp and industrial hemp commodities and products produced or processed by a grower, handler or agricultural hemp seed producer registered under ORS 571.281.

(3) A grower or handler may not sell or transfer an industrial hemp commodity or product that is intended for human consumption unless the commodity or product is tested by a laboratory described in subsection (2) of this section to ensure that the commodity or product meets the requirements adopted by the Oregon Health Authority under ORS 475B.555 (1)(a) and (b) [and (2)] for testing marijuana items **and industrial hemp-derived vapor items and ORS 475B.555 (2) for testing cannabinoid edibles.**

(4) **Industrial hemp commodities or products that are intended for use in an inhalant delivery system, as defined in ORS 431A.175, must meet the requirements of ORS 475B.550 to 475B.590 and 475B.600 to 475B.655 that apply to industrial hemp-derived vapor items as defined in ORS 475B.550 and 475B.600.**

[(4)] (5) For purposes of this section, the department shall adopt rules:

- (a) Establishing protocols for the testing of industrial hemp commodities and products; and
- (b) Establishing procedures for determining batch sizes and for sampling industrial hemp commodities and products.

[(5)] (6) This section does not apply to:

- (a) Agricultural hemp seed;
- (b) Seeds of the plant genus Cannabis within the plant family Cannabaceae that are incapable of germination;
- (c) Products derived from seeds described in paragraph (b) of this subsection; or
- (d) Other parts of industrial hemp that the department identifies by rule as exempt.

SECTION 14. Sections 7 and 12 of this 2021 Act and the amendments to ORS 475B.025, 475B.550, 475B.555, 475B.560, 475B.565, 475B.600, 475B.605, 475B.610 and 571.330 by sections 1 to 5, 8 to 10 and 13 of this 2021 Act apply to inhalant delivery systems sold or transferred on or after the operative date specified in section 15 of this 2021 Act and to industrial hemp-derived vapor items processed on or after the operative date specified in section 15 of this 2021 Act.

SECTION 15. (1) Sections 7 and 12 of this 2021 Act and the amendments to ORS 475B.025, 475B.550, 475B.555, 475B.560, 475B.565, 475B.600, 475B.605, 475B.610 and 571.330 by sections 1 to 5, 8 to 10 and 13 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Liquor Control Commission and the State Department of Agriculture may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the commission and department to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the commission and department by sections 7 and 12 of this 2021 Act and the amendments to ORS 475B.025, 475B.550, 475B.555, 475B.560, 475B.565, 475B.600, 475B.605, 475B.610 and 571.330 by sections 1 to 5, 8 to 10 and 13 of this 2021 Act.

SECTION 16. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by Senate June 21, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 24, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State