

SB 755-1
(LC 3429)
2/26/21 (JLM/ps)

Requested by SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION (at the request of Senator Floyd Prozanski)

**PROPOSED AMENDMENTS TO
SENATE BILL 755**

1 On page 1 of the printed bill, line 3, after “475.752,” insert “475.814” and
2 after “475.894,” insert “475.900,”.

3 On page 11, line 32, after “ORS” insert “475.814,”.

4 On page 12, after line 17, insert:

5 **“SECTION 14a.** ORS 475.814 is amended to read:

6 “475.814. (1) It is unlawful for any person knowingly or intentionally to
7 possess hydrocodone unless the hydrocodone was obtained directly from, or
8 pursuant to[,] a valid prescription or order of, a practitioner while acting in
9 the course of professional practice, or except as otherwise authorized by ORS
10 475.005 to 475.285 and 475.752 to 475.980.

11 “(2)(a) Unlawful possession of hydrocodone is a [*Class A misdemeanor*]
12 **Class E violation.**

13 **“(b) Notwithstanding paragraph (a) of this subsection, unlawful**
14 **possession of hydrocodone is a Class A misdemeanor if the possession**
15 **is a commercial drug offense under ORS 475.900 (1)(b).**

16 **“(c) Notwithstanding paragraph (a) of this subsection, unlawful**
17 **possession of hydrocodone is a Class A misdemeanor if the person**
18 **possesses 40 or more pills, tablets, capsules or user units of a mixture**
19 **or substance containing a detectable amount of hydrocodone.”.**

20 On page 13, after line 45, insert:

21 **“SECTION 20a.** ORS 475.900 is amended to read:

1 “475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or
2 475.906 shall be classified as crime category 8 of the sentencing guidelines
3 grid of the Oregon Criminal Justice Commission if:

4 “(a) The violation constitutes delivery or manufacture of a controlled
5 substance and involves substantial quantities of a controlled substance. For
6 purposes of this paragraph, the following amounts constitute substantial
7 quantities of the following controlled substances:

8 “(A) Five grams or more of a mixture or substance containing a detect-
9 able amount of heroin;

10 “(B) Ten grams or more of a mixture or substance containing a detectable
11 amount of cocaine;

12 “(C) Ten grams or more of a mixture or substance containing a detectable
13 amount of methamphetamine, its salts, isomers or salts of its isomers;

14 “(D) Two hundred or more user units of a mixture or substance contain-
15 ing a detectable amount of lysergic acid diethylamide;

16 “(E) Sixty grams or more of a mixture or substance containing a detect-
17 able amount of psilocybin or psilocin; or

18 “(F) Five grams or more or 25 or more pills, tablets or capsules of a
19 mixture or substance containing a detectable amount of:

20 “(i) 3,4-methylenedioxyamphetamine;

21 “(ii) 3,4-methylenedioxymethamphetamine; or

22 “(iii) 3,4-methylenedioxy-N-ethylamphetamine.

23 “(b) The violation constitutes possession, delivery or manufacture of a
24 controlled substance and the possession, delivery or manufacture is a com-
25 mercial drug offense. A possession, delivery or manufacture is a commercial
26 drug offense for purposes of this subsection if it is accompanied by at least
27 three of the following factors:

28 “(A) The delivery was of heroin, cocaine, methamphetamine, lysergic acid
29 diethylamide, psilocybin or psilocin and was for consideration;

30 “(B) The offender was in possession of \$300 or more in cash;

1 “(C) The offender was unlawfully in possession of a firearm or other
2 weapon as described in ORS 166.270 (2), or the offender used, attempted to
3 use or threatened to use a deadly or dangerous weapon as defined in ORS
4 161.015, or the offender was in possession of a firearm or other deadly or
5 dangerous weapon as defined in ORS 161.015 for the purpose of using it in
6 connection with a controlled substance offense;

7 “(D) The offender was in possession of materials being used for the
8 packaging of controlled substances such as scales, wrapping or foil, other
9 than the material being used to contain the substance that is the subject of
10 the offense;

11 “(E) The offender was in possession of drug transaction records or cus-
12 tomer lists;

13 “(F) The offender was in possession of stolen property;

14 “(G) Modification of structures by painting, wiring, plumbing or lighting
15 to facilitate a controlled substance offense;

16 “(H) The offender was in possession of manufacturing paraphernalia, in-
17 cluding recipes, precursor chemicals, laboratory equipment, lighting, venti-
18 lating or power generating equipment;

19 “(I) The offender was using public lands for the manufacture of controlled
20 substances;

21 “(J) The offender had constructed fortifications or had taken security
22 measures with the potential of injuring persons; or

23 “(K) The offender was in possession of controlled substances in an amount
24 greater than:

25 “(i) Three grams or more of a mixture or substance containing a detect-
26 able amount of heroin;

27 “(ii) Eight grams or more of a mixture or substance containing a detect-
28 able amount of cocaine;

29 “(iii) Eight grams or more of a mixture or substance containing a de-
30 tectable amount of methamphetamine;

1 “(iv) Twenty or more user units of a mixture or substance containing a
2 detectable amount of lysergic acid diethylamide;

3 “(v) Ten grams or more of a mixture or substance containing a detectable
4 amount of psilocybin or psilocin; or

5 “(vi) Four grams or more or 20 or more pills, tablets or capsules of a
6 mixture or substance containing a detectable amount of:

7 “(I) 3,4-methylenedioxyamphetamine;

8 “(II) 3,4-methylenedioxymethamphetamine; or

9 “(III) 3,4-methylenedioxy-N-ethylamphetamine.

10 “(c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868,
11 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

12 “(d) The violation constitutes manufacturing methamphetamine and the
13 manufacturing consists of:

14 “(A) A chemical reaction involving one or more precursor substances for
15 the purpose of manufacturing methamphetamine; or

16 “(B) Grinding, soaking or otherwise breaking down a precursor substance
17 for the purpose of manufacturing methamphetamine.

18 “(e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is
19 not described in ORS 475.907.

20 “(2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified
21 as crime category 6 of the sentencing guidelines grid of the Oregon Criminal
22 Justice Commission if:

23 “(a) The violation constitutes delivery of heroin, cocaine, methamphet-
24 amine or 3,4-methylenedioxyamphetamine,
25 3,4-methylenedioxymethamphetamine or
26 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

27 “(b) The violation constitutes possession of:

28 “(A) Five grams or more of a mixture or substance containing a detect-
29 able amount of heroin;

30 “(B) Ten grams or more of a mixture or substance containing a detectable

1 amount of cocaine;

2 “(C) Ten grams or more of a mixture or substance containing a detectable
3 amount of methamphetamine;

4 “(D) Two hundred or more user units of a mixture or substance contain-
5 ing a detectable amount of lysergic acid diethylamide;

6 “(E) Sixty grams or more of a mixture or substance containing a detect-
7 able amount of psilocybin or psilocin; or

8 “(F) Five grams or more or 25 or more pills, tablets or capsules of a
9 mixture or substance containing a detectable amount of:

10 “(i) 3,4-methylenedioxyamphetamine;

11 “(ii) 3,4-methylenedioxymethamphetamine; or

12 “(iii) 3,4-methylenedioxy-N-ethylamphetamine.

13 “(3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not con-
14 tained in subsection (1) or (2) of this section shall be classified as[:]

15 “[*a*] crime category 4 of the sentencing guidelines grid of the Oregon
16 Criminal Justice Commission if the violation involves delivery or manufac-
17 ture of a controlled substance.[: or]

18 “[*b*] *Crime category 1 of the sentencing guidelines grid of the Oregon*
19 *Criminal Justice Commission if the violation involves possession of a con-*
20 *trolled substance.*]

21 “(4) In order to prove a commercial drug offense, the state shall plead in
22 the accusatory instrument sufficient factors of a commercial drug offense
23 under subsections (1) and (2) of this section. The state has the burden of
24 proving each factor beyond a reasonable doubt.

25 “(5) As used in this section, ‘mixture or substance’ means any mixture or
26 substance, whether or not the mixture or substance is in an ingestible or
27 marketable form at the time of the offense.”.

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