

Enrolled House Bill 4074

Sponsored by Representatives WILDE, MORGAN, Senator KENNEMER, Representatives MARSH, SANCHEZ, Senators FREDERICK, MANNING JR; Representatives ALONSO LEON, HAYDEN, HUDSON, LEVY, REARDON, SCHARF, SCHOUTEN, SMITH DB, SMITH G, WEBER, WRIGHT, Senator HANSELL (Presession filed.)

CHAPTER

AN ACT

Relating to cannabis; creating new provisions; amending ORS 475C.105, 475C.269 and 475C.608 and sections 13, 14 and 16, chapter 103, Oregon Laws 2018, and section 41a, chapter 542, Oregon Laws 2021; repealing sections 17 and 26, chapter 103, Oregon Laws 2018; and declaring an emergency.

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

SECTION 1. Section 2 of this 2022 Act is added to and made a part of ORS 475C.005 to 475C.525.

SECTION 2. (1) As used in this section, “law enforcement agency” has the meaning given that term in ORS 471.271.

(2) An employee or worker at a premises licensed under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 shall:

(a) Report to a law enforcement agency and to the Oregon Liquor and Cannabis Commission if the employee or worker has a reasonable belief that sex trafficking or other human trafficking is occurring at the licensed premises; and

(b) Report to the commission if the employee or worker has a reasonable belief that a minor is employed or contracted at the licensed premises in a manner that violates commission rules.

(3) An employee or worker making a report under this section in good faith is immune from any criminal or civil liability for making the report.

(4) The commission may adopt rules to carry out this section.

SECTION 3. ORS 475C.105 is amended to read:

475C.105. (1) If a school described in ORS 475C.097 (2)(d) that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under ORS 475C.097, the marijuana retailer located at that premises may remain at that location unless the Oregon Liquor and Cannabis Commission revokes the license of the marijuana retailer under ORS 475C.265.

(2)(a) If the commission issues a license for a premises under ORS 475C.097 and, after issuance, the commission becomes aware that a school established prior to issuance of the license is located within 1,000 feet of the premises, the commission may allow the marijuana retailer to relocate to a premises that is not within 1,000 feet of the school without applying for and being issued a new license under ORS 475C.097.

(b) The commission may adopt rules to carry out this subsection.

SECTION 4. ORS 475C.269 is amended to read:

475C.269. (1) An individual who performs work for or on behalf of a licensee **or a laboratory licensed under ORS 475C.548** must have a valid permit issued by the Oregon Liquor and Cannabis Commission under ORS 475C.273 if the individual participates in:

(a) The delivery, possession, production, propagation, processing, **sampling**, securing [*or*], selling **or testing** of marijuana items at the premises **or laboratory** for which the license has been issued;

(b) The recording of the delivery, possession, production, propagation, processing, **sampling**, securing [*or*], selling **or testing** of marijuana items at the premises **or laboratory** for which the license has been issued; or

(c) The verification of any document described in ORS 475C.217.

(2) A licensee **or a laboratory licensed under ORS 475C.548** must verify that an individual has a valid permit issued under ORS 475C.273 before allowing the individual to perform, **or continue to perform**, any work described in subsection (1) of this section at the premises **or laboratory** for which the license has been issued.

SECTION 5. ORS 475C.608 is amended to read:

475C.608. (1) As used in this section:

(a) "Licensee" has the meaning given that term in ORS 475C.009.

(b) "Registrant" means a person registered under ORS 475C.770 to 475C.919.

(2) The Oregon Liquor and Cannabis 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, **person** 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 475C.604 and any rule adopted under ORS 475C.604.

(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 6. Section 41a, chapter 542, Oregon Laws 2021, is amended to read:

Sec. 41a. (1) The Oregon Liquor and Cannabis Commission, in consultation with the State Department of Agriculture, shall develop by rule a methodology to distinguish whether a cannabis plant is marijuana or industrial hemp for purposes of sections 40 to 44 [*of this 2021 Act*], **chapter 542, Oregon Laws 2021**. The methodology must include testing criteria and cannabinoid concentrations above which immature or mature cannabis plants are presumptively considered to be marijuana.

(2) If a cannabis plant is presumptively considered to be marijuana under subsection (1) of this section, the presumption may be rebutted through additional testing, as determined by the department by rule, in consultation with the commission. The rules adopted pursuant to this subsection must require that the rebuttal testing and sampling for the rebuttal testing be conducted by a department staff member in a laboratory operated by the department.

[2] **(3) The department may order a person registered or licensed under ORS 571.281 to destroy any cannabis plants located at an industrial hemp operation for which the person described in this subsection is responsible if the cannabis plants are presumptively considered to be marijuana under the methodology adopted pursuant to subsection (1) of this section, and after any rebuttal testing pursuant to subsection (2) of this section.**

SECTION 7. Section 13, chapter 103, Oregon Laws 2018, as amended by section 1, chapter 3, Oregon Laws 2021 (second special session), is amended to read:

Sec. 13. (1) The Illegal Marijuana Market Enforcement Grant Program is established to assist cities and counties with the costs incurred by local law enforcement agencies **and community-based organizations** in addressing unlawful marijuana cultivation or distribution operations.

(2) The Oregon Criminal Justice Commission shall administer the grant program described in subsection (1) of this section and shall award the grants described in this section.

(3) The commission shall adopt rules to administer the grant program. Rules adopted under this section must include:

(a) A methodology for reviewing and approving grant applications and awarding grants; and

(b) A process for evaluating the efficacy of local law enforcement programs and services funded by the grant program.

(4) Moneys distributed to grant recipients under this section must be spent on costs associated with addressing and prosecuting unlawful marijuana cultivation or distribution operations.

(5) The commission shall prioritize the following when awarding grants under this section:

(a) Providing financial assistance to local law enforcement agencies and district attorneys in rural areas of this state to address unlawful marijuana cultivation or distribution operations;

(b) Supporting local law enforcement agencies and district attorneys in investigating and prosecuting large-scale unlawful marijuana cultivation or distribution operations;

(c) Providing financial assistance to local law enforcement agencies and district attorneys in the investigation and prosecution of organized crime involved in unlawful marijuana cultivation or distribution operations;

(d) Providing financial assistance to local law enforcement agencies and district attorneys in the investigation and prosecution of unlawful marijuana cultivation or distribution operations that divert marijuana outside of this state; and

(e) Providing financial assistance to local law enforcement agencies [*to partner with*] **and** community-based organizations in order to address the ongoing humanitarian crisis associated with unlawful marijuana cultivation or distribution operations and to facilitate connections to any necessary assistance and services for individuals impacted by the humanitarian crisis, including but not limited to language translation services and housing and legal assistance.

SECTION 8. Section 16, chapter 103, Oregon Laws 2018, as amended by section 39, chapter 542, Oregon Laws 2021, is amended to read:

Sec. 16. [(1)] Notwithstanding ORS [475B.759] **475C.726**, before making any other distribution from the Oregon Marijuana Account established under ORS [475B.759] **475C.726**, the Department of Revenue shall first distribute quarterly from the account the following:

[(a)] (1) \$875,000 to the Oregon Liquor and Cannabis Commission for deposit in the Marijuana Control and Regulation Fund established under ORS [475B.296] **475C.297**; and

[(b)] (2) \$750,000 to the Oregon Criminal Justice Commission for deposit into the Illegal Marijuana Market Enforcement Grant Program Fund established under section 15, chapter 103, Oregon Laws 2018, for the purposes of paying the costs incurred by the commission in carrying out the provisions of section 13, chapter 103, Oregon Laws 2018.

[(2) *The final distribution made under subsection (1) of this section shall be made in the fiscal quarter beginning on October 1, 2023.*]

SECTION 9. Section 14, chapter 103, Oregon Laws 2018, is amended to read:

Sec. 14. (1) [*Not later than January 1, 2020, and*] Not later than January 1 of each year [*thereafter*], the Oregon Criminal Justice Commission shall submit a report in the manner provided in ORS 192.245 on the status and effectiveness of the Illegal Marijuana Market Enforcement Grant Program established under section 13 [*of this 2018 Act*], **chapter 103, Oregon Laws 2018**, to the interim committees of the Legislative Assembly related to the judiciary.

(2) **Not later than January 1 of each year, the commission shall submit a report in the manner provided in ORS 192.245 on recommendations for changes to the funding of the Illegal Marijuana Market Enforcement Grant Program to the interim committees of the Legislative Assembly related to the judiciary. In making the recommendations described in this subsection, the commission shall consider the best available information and projections re-**

garding unlawful marijuana cultivation and distribution operations in this state and any human trafficking related to those operations.

SECTION 10. Sections 17 and 26, chapter 103, Oregon Laws 2018, are repealed.

SECTION 11. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Criminal Justice Commission, for the biennium ending June 30, 2023, out of the General Fund, the amount of \$6,000,000, for deposit into the Illegal Marijuana Market Enforcement Grant Program Fund established under section 15, chapter 103, Oregon Laws 2018, for the purpose of responding to humanitarian crises associated with unlawful marijuana cultivation and distribution operations.

SECTION 12. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3, chapter 379, Oregon Laws 2021, for the biennium ending June 30, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Criminal Justice Commission, is increased by \$6,000,000, for additional grants under the Illegal Marijuana Market Enforcement Grant Program established under section 13, chapter 103, Oregon Laws 2018, for financial assistance to community-based organizations that are responding to the humanitarian crises associated with unlawful marijuana cultivation and distribution operations.

SECTION 13. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3, chapter 379, Oregon Laws 2021, for the biennium ending June 30, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Criminal Justice Commission, is increased by \$130,978.

SECTION 14. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (1), chapter 640, Oregon Laws 2021, for the biennium ending June 30, 2023, as the maximum limit for payment of fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds collected or received by the Oregon Liquor and Cannabis Commission for administrative expenses, is increased by \$155,127.

SECTION 15. (1) The amendments to ORS 475C.105, 475C.269 and 475C.608 by sections 3 to 5 of this 2022 Act become operative on January 1, 2023.

(2) The Oregon Liquor and Cannabis Commission may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the commission 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 by the amendments to ORS 475C.105, 475C.269 and 475C.608 by sections 3 to 5 of this 2022 Act.

SECTION 16. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

Passed by House February 28, 2022

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate March 3, 2022

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2022

Approved:

.....M,....., 2022

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2022

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Shemia Fagan, Secretary of State