HB 2397-1
(LC 1003)
3/21/23 (SCT/ps)

Requested by Representative DEXTER

PROPOSED AMENDMENTS TO
HOUSE BILL 2397

In line 2 of the printed bill, after "prevention" insert "; creating new provisions; and amending ORS 414.318, 414.320 and 475.525".

Delete lines 4 through 8 and insert:

"SECTION 1. (1) As used in this section, 'harm reduction supplies' means opioid reversal medications, hypodermic syringes or needles, single-use drug test strips, drug testing tools or any other item designed to prevent or reduce the potential harm associated with the use of opioids and other controlled substances, including but not limited to items that reduce the risk of transmission of infectious disease or prevent injury, infection or overdose.

"(2) The Harm Reduction Clearinghouse Project is established in the Oregon Health Authority to purchase in bulk harm reduction supplies for use throughout this state by community organizations, first responders and other entities that serve populations who are vulnerable to overdose, infections or injuries due to opioid use and use of other controlled substances. Entities that may participate in the project include but are not limited to:

"(a) Hospitals and emergency departments;

"(b) First responders;

"(c) Law enforcement agencies;

"(d) Courts and other departments within the criminal justice sys-

tem;

"(e) Organizations that provide services to individuals experiencing homelessness;

"(f) Organizations that provide services to individuals at risk of overdose, infections or injuries related to opioid use or use of other controlled substances;

"(g) Veterans' organizations;

"(h) Religious organizations;

"(i) Schools and universities;

"(j) Substance use treatment and recovery facilities, including inpatient facilities, outpatient facilities, residential facilities and sobering centers;

"(k) Public libraries;

"(L) Community health centers;

"(m) County public health or behavioral health agencies; and

"(n) Special districts.

"(3) To make the bulk purchases of harm reduction supplies under this section, the administrator of the Harm Reduction Clearinghouse Project may use funds from the Opioid Reversal Medication and Harm Reduction Clearinghouse Bulk Purchasing Fund established in section 2 of this 2023 Act or from gifts, grants, bequests, endowments or donations made to the Prescription Drug Purchasing Fund established in ORS 414.318 for the purchase of harm reduction supplies.

"SECTION 2. (1) The Opioid Reversal Medication and Harm Reduction Clearinghouse Bulk Purchasing Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Opioid Reversal Medication and Harm Reduction Clearinghouse Bulk Purchasing Fund shall be credited to the fund.

"(2) The Opioid Reversal Medication and Harm Reduction Clearinghouse Bulk Purchasing Fund consists of moneys received by the

Oregon Health Authority from opioid litigation settlements, grants from the Substance Abuse and Mental Health Services Administration within the United States Department of Health and Human Services for the purpose of addressing the opioid overdose epidemic and moneys appropriated to the fund by the Legislative Assembly.

"(3) The moneys in the Opioid Reversal Medication and Harm Reduction Clearinghouse Bulk Purchasing Fund are continuously appropriated to the Oregon Health Authority for the purpose of carrying out section 1 of this 2023 Act.

"SECTION 3. ORS 414.318 is amended to read:

"414.318. The Prescription Drug Purchasing Fund is established separate and distinct from the General Fund. The Prescription Drug Purchasing Fund shall consist of moneys appropriated to the fund by the Legislative Assembly and moneys received by the Oregon Health Authority for the purposes established in this section in the form of gifts, grants, bequests, endowments or donations. The moneys in the Prescription Drug Purchasing Fund are continuously appropriated to the authority and shall be used to purchase prescription drugs, reimburse pharmacies for prescription drugs**, purchase harm reduction supplies under section 2 of this 2023 Act** and reimburse the authority for the costs of administering the Oregon Prescription Drug Program, including contracted services costs, computer costs, professional dispensing fees paid to retail pharmacies and other reasonable program costs. Interest earned on the fund shall be credited to the fund.

"SECTION 4. ORS 414.320 is amended to read:

"414.320. The Oregon Health Authority shall adopt rules to implement and administer ORS 414.312 to 414.318 **and section 1 of this 2023 Act**. The rules shall include but are not limited to establishing procedures for:

"(1) Issuing prescription drug identification cards to individuals and entities that participate in the Oregon Prescription Drug Program; and

"(2) Enrolling pharmacies in the program.

"SECTION 5. ORS 475.525 is amended to read:

"475.525. (1) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver or manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used to unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance as defined by ORS 475.005.

"(2) For the purposes of this section, 'drug paraphernalia' means all equipment, products and materials of any kind that are marketed for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of ORS 475.752 to 475.980. Drug paraphernalia includes, but is not limited to:

"(a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(b) Kits marketed for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

"(c) Isomerization devices marketed for use or designed for use in increasing the potency of any species of plant that is a controlled substance;

"[*(d) Testing equipment marketed for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;*]

"[*(e)*] **(d)** Scales and balances marketed for use or designed for use in weighing or measuring controlled substances;

"[*(f)*] **(e)** Diluents and adulterants, such as quinine hydrochloride,

mannitol, mannite, dextrose and lactose, marketed for use or designed for use in cutting controlled substances;

"[*(g)*] **(f)** Lighting equipment specifically designed for growing controlled substances;

"[*(h)*] **(g)** Containers and other objects marketed for use or designed for use in storing or concealing controlled substances; and

"[*(i)*] **(h)** Objects marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing a controlled substance into the human body, such as:

"[*(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens;*]

"[*(B) Water pipes;*]

"[*(C) Carburetion tubes and devices;*]

"[*(D)*] **(A)** Smoking and carburetion masks;

"[*(E)*] **(B)** Roach clips, meaning objects used to hold burning material that has become too small or too short to be held in the hand; **or**

"[*(F)*] **(C)** Miniature cocaine spoons and cocaine vials[*;*]**.**

"[*(G) Chamber pipes;*]

"[*(H) Carburetor pipes;*]

"[*(I) Electric pipes;*]

"[*(J) Air-driven pipes;*]

"[*(K) Chillums;*]

"[*(L) Bongs; and*]

"[*(M) Ice pipes or chillers.*]

"(3) For purposes of this section, 'drug paraphernalia' does not include hypodermic syringes or needles**, single-use drug test strips, drug testing tools or any other item designed to prevent or reduce the potential harm associated with the use of opioids and other controlled substances, including but not limited to items that reduce the risk of transmission of infectious disease or prevent injury, infection or**

overdose.

"(4) The provisions of ORS 475.525 to 475.565 do not apply to persons registered under the provisions of ORS 475.125 or to persons specified as exempt from registration under the provisions of that statute.

"(5)(a) The provisions of ORS 475.525 to 475.565 do not apply to a person who sells or delivers marijuana paraphernalia as defined in ORS 475C.373 to a person 21 years of age or older.

"(b) In determining whether an object is drug paraphernalia under this section or marijuana paraphernalia under ORS 475C.373, a trier of fact shall consider, in addition to any other relevant factor, the following:

"(A) Any oral or written instruction provided with the object related to the object's use;

"(B) Any descriptive material packaged with the object that explains or depicts the object's use;

"(C) Any national or local advertising related to the object's use;

"(D) Any proffered expert testimony related to the object's use;

"(E) The manner in which the object is displayed for sale, if applicable; and

"(F) Any other proffered evidence substantiating the object's intended use.

"**(6) A person acting in good faith is immune from civil liability for any act or omission of an action committed during the course of distributing an item described in subsection (3) of this section.**

"SECTION 6. The amendments to ORS 475.525 by section 5 of this 2023 Act apply to conduct occurring on or after the effective date of this 2023 Act.".
