

House Bill 3946

Sponsored by Representative SANCHEZ

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act adds preschools to drug crimes based on proximity to schools. The Act goes into effect when the Governor signs it. (Flesch Readability Score: 80.3).

Defines "schools" as including preschools for purposes of manufacture and delivery of a controlled substance crimes occurring within 1,000 feet of a school.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

Relating to drug crimes occurring near schools; amending ORS 475.005, 475.808, 475.812, 475.818, 475.822, 475.828, 475.832, 475.848, 475.852, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 and 475.904; and declaring an emergency.

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

SECTION 1. ORS 475.005, as amended by section 24, chapter 70, Oregon Laws 2024, and section 98, chapter 73, Oregon Laws 2024, is amended to read:

475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires otherwise:

(1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or medical supervision, which may have a detrimental effect on the individual or society.

(2) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(a) A practitioner or an authorized agent thereof; or

(b) The patient or research subject at the direction of the practitioner.

(3) "Administration" means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.

(4) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(5) "Board" means the State Board of Pharmacy.

(6) "Controlled substance":

(a) Means a drug or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term "precursor" in this paragraph does not control and is not controlled by the use of the term "precursor" in ORS 475.752 to 475.980.

(b) Does not include:

(A) The plant Cannabis family Cannabaceae;

(B) Any part of the plant Cannabis family Cannabaceae, whether growing or not;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (C) Resin extracted from any part of the plant Cannabis family Cannabaceae;

2 (D) The seeds of the plant Cannabis family Cannabaceae;

3 (E) Any compound, manufacture, salt, derivative, mixture or preparation of a plant, part of a
4 plant, resin or seed described in this paragraph; or

5 (F) Psilocybin or psilocin, but only if and to the extent that a person manufactures, delivers, or
6 possesses psilocybin, psilocin, or psilocybin products in accordance with the provisions of ORS
7 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

8 (7) "Counterfeit substance" means a controlled substance or its container or labeling, which,
9 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number
10 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person
11 who in fact manufactured, delivered or dispensed the substance.

12 (8) "Deliver" or "delivery" means the actual, constructive or attempted transfer of, or possession
13 with the intent to transfer, other than by administering or dispensing, from one person to another,
14 a controlled substance, whether or not there is an agency relationship.

15 (9) "Device" means instruments, apparatus or contrivances, including their components, parts
16 or accessories, intended:

17 (a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or
18 animals; or

19 (b) To affect the structure of any function of the body of humans or animals.

20 (10) "Dispense" means to deliver a controlled substance to an ultimate user or research subject
21 by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering,
22 packaging, labeling or compounding necessary to prepare the substance for that delivery.

23 (11) "Dispenser" means a practitioner who dispenses.

24 (12) "Distributor" means a person who delivers.

25 (13) "Drug" means:

26 (a) Substances recognized as drugs in the official United States Pharmacopoeia, official
27 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement
28 to any of them;

29 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of
30 disease in humans or animals;

31 (c) Substances (other than food) intended to affect the structure or any function of the body of
32 humans or animals; and

33 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or
34 (c) of this subsection; however, the term does not include devices or their components, parts or ac-
35 cessories.

36 (14) "Electronically transmitted" or "electronic transmission" means a communication sent or
37 received through technological apparatuses, including computer terminals or other equipment or
38 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
39 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

40 (15) "Manufacture" means the production, preparation, propagation, compounding, conversion
41 or processing of a controlled substance, either directly or indirectly by extraction from substances
42 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
43 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
44 relabeling of its container, except that this term does not include the preparation or compounding
45 of a controlled substance:

(a) By a practitioner as an incident to administering or dispensing of a controlled substance in the course of professional practice; or

(b) By a practitioner, or by an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

(16) "Person" includes a government subdivision or agency, business trust, estate, trust or any other legal entity.

(17) "Practitioner" means physician, dentist, veterinarian, scientific investigator, licensed nurse practitioner, physician associate or other person licensed, registered or otherwise permitted by law to dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state but does not include a pharmacist or a pharmacy.

(18) "Prescription" means a written, oral or electronically transmitted direction, given by a practitioner for the preparation and use of a drug. When the context requires, "prescription" also means the drug prepared under such written, oral or electronically transmitted direction. Any label affixed to a drug prepared under written, oral or electronically transmitted direction shall prominently display a warning that the removal thereof is prohibited by law.

(19) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(20) "Research" means an activity conducted by the person registered with the federal Drug Enforcement Administration pursuant to a protocol approved by the United States Food and Drug Administration.

(21) "School" means a preschool or a public or private elementary, secondary or career school attended primarily by minors.

[(21)] **(22)** "Ultimate user" means a person who lawfully possesses a controlled substance for the use of the person or for the use of a member of the household of the person or for administering to an animal owned by the person or by a member of the household of the person.

[(22)] **(23)** "Usable quantity" means:

(a) An amount of a controlled substance that is sufficient to physically weigh independent of its packaging and that does not fall below the uncertainty of the measuring scale; or

(b) An amount of a controlled substance that has not been deemed unweighable, as determined by a Department of State Police forensic laboratory, due to the circumstances of the controlled substance.

[(23)] **(24)** "Within 30 feet," "within 500 feet" and "within 1,000 feet" mean a straight line measurement in a radius extending for the specified number of feet or less in every direction from a specified location or from any point on the boundary line of a specified unit of property.

SECTION 2. ORS 475.808 is amended to read:

475.808. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture hydrocodone within 1,000 feet of the real property comprising a *[public or private elementary, secondary or career] school [attended primarily by minors]*.

(2) Unlawful manufacture of hydrocodone within 1,000 feet of a school is a Class B felony.

SECTION 3. ORS 475.812 is amended to read:

475.812. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver hydrocodone within 1,000 feet of the real property comprising a *[public or private elementary, secondary or career] school [attended primarily by minors]*.

(2) Unlawful delivery of hydrocodone within 1,000 feet of a school is a Class B felony.

SECTION 4. ORS 475.818 is amended to read:

1 475.818. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
 2 for any person to manufacture methadone within 1,000 feet of the real property comprising a [*public*
 3 *or private elementary, secondary or career*] school [*attended primarily by minors*].

4 (2) Unlawful manufacture of methadone within 1,000 feet of a school is a Class A felony.

5 **SECTION 5.** ORS 475.822 is amended to read:

6 475.822. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
 7 for any person to deliver methadone within 1,000 feet of the real property comprising a [*public or*
 8 *private elementary, secondary or career*] school [*attended primarily by minors*].

9 (2) Unlawful delivery of methadone within 1,000 feet of a school is a Class A felony.

10 **SECTION 6.** ORS 475.828 is amended to read:

11 475.828. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
 12 for any person to manufacture oxycodone within 1,000 feet of the real property comprising a [*public*
 13 *or private elementary, secondary or career*] school [*attended primarily by minors*].

14 (2) Unlawful manufacture of oxycodone within 1,000 feet of a school is a Class A felony.

15 **SECTION 7.** ORS 475.832 is amended to read:

16 475.832. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
 17 for any person to deliver oxycodone within 1,000 feet of the real property comprising a [*public or*
 18 *private elementary, secondary or career*] school [*attended primarily by minors*].

19 (2) Unlawful delivery of oxycodone within 1,000 feet of a school is a Class A felony.

20 **SECTION 8.** ORS 475.848 is amended to read:

21 475.848. (1) It is unlawful for any person to manufacture heroin within 1,000 feet of the real
 22 property comprising a [*public or private elementary, secondary or career*] school [*attended primarily*
 23 *by minors*].

24 (2) Unlawful manufacture of heroin within 1,000 feet of a school is a Class A felony.

25 **SECTION 9.** ORS 475.852 is amended to read:

26 475.852. (1) It is unlawful for any person to deliver heroin within 1,000 feet of the real property
 27 comprising a [*public or private elementary, secondary or career*] school [*attended primarily by*
 28 *minors*].

29 (2) Unlawful delivery of heroin within 1,000 feet of a school is a Class A felony.

30 **SECTION 10.** ORS 475.868 is amended to read:

31 475.868. (1) It is unlawful for any person to manufacture 3,4-methylenedioxymethamphetamine
 32 within 1,000 feet of the real property comprising a [*public or private elementary, secondary or*
 33 *career*] school [*attended primarily by minors*].

34 (2) Unlawful manufacture of 3,4-meth-
 35 ylenedioxymethamphetamine within 1,000 feet of a school is a Class A felony.

36 **SECTION 11.** ORS 475.872 is amended to read:

37 475.872. (1) It is unlawful for any person to deliver 3,4-methylenedioxymethamphetamine within
 38 1,000 feet of the real property comprising a [*public or private elementary, secondary or career*] school
 39 [*attended primarily by minors*].

40 (2) Unlawful delivery of 3,4-methylenedi-
 41 oxymethamphetamine within 1,000 feet of a school is a Class A felony.

42 **SECTION 12.** ORS 475.878 is amended to read:

43 475.878. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
 44 for any person to manufacture cocaine within 1,000 feet of the real property comprising a [*public*
 45 *or private elementary, secondary or career*] school [*attended primarily by minors*].

(2) Unlawful manufacture of cocaine within 1,000 feet of a school is a Class A felony.

SECTION 13. ORS 475.882 is amended to read:

475.882. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver cocaine within 1,000 feet of the real property comprising a [*public or private elementary, secondary or career*] school [*attended primarily by minors*].

(2) Unlawful delivery of cocaine within 1,000 feet of a school is a Class A felony.

SECTION 14. ORS 475.888 is amended to read:

475.888. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture methamphetamine within 1,000 feet of the real property comprising a [*public or private elementary, secondary or career*] school [*attended primarily by minors*].

(2) Unlawful manufacture of methamphetamine within 1,000 feet of a school is a Class A felony.

(3) The minimum fine for unlawful manufacture of methamphetamine within 1,000 feet of a school is \$1,000.

SECTION 15. ORS 475.892 is amended to read:

475.892. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver methamphetamine within 1,000 feet of the real property comprising a [*public or private elementary, secondary or career*] school [*attended primarily by minors*].

(2) Unlawful delivery of methamphetamine within 1,000 feet of a school is a Class A felony.

(3) The minimum fine for unlawful delivery of methamphetamine within 1,000 feet of a school is \$500.

SECTION 16. ORS 475.904 is amended to read:

475.904. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture or deliver a schedule I, II or III controlled substance within 1,000 feet of the real property comprising a [*public or private elementary, secondary or career*] school [*attended primarily by minors*].

(2) Unlawful manufacture or delivery of a controlled substance within 1,000 feet of a school is a Class A felony.

(3) This section does not apply to:

(a) A licensee or licensee representative, as those terms are defined in ORS 475C.009, that is engaged in lawful activities; or

(b) A person acting within the scope of and in compliance with ORS 475C.305.

SECTION 17. This 2025 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect on its passage.