

Senate Bill 772

Sponsored by Senator MORRISETTE

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**.

Modifies amount of medical marijuana authorized person or designated primary caregiver may possess under certain circumstances. Authorizes multiple-person grow site to produce medical marijuana for up to seven eligible persons. Eliminates affirmative defense of medical necessity in certain circumstances. Clarifies meaning of mature plant for purposes of Oregon Medical Marijuana Act. Authorizes certain licensed health care professionals to administer medical marijuana to authorized persons in certain circumstances.

Requires Department of Human Services to develop system to allow authorized law enforcement personnel to access list of persons issued registry identification cards. Requires state and local law enforcement personnel to provide identification to department prior to obtaining information from list of persons issued registry identification cards. Creates Advisory Committee on Medical Marijuana in department.

A BILL FOR AN ACT

1
2 Relating to medical marijuana; creating new provisions; amending ORS 475.306, 475.328 and 475.331.

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

4 **SECTION 1.** ORS 475.306 is amended to read:

5 475.306. (1) A person who possesses a registry identification card [*issued pursuant to ORS*
6 *475.309*] may engage in, and a designated primary caregiver of such a person may assist in, the
7 medical use of marijuana only as justified to mitigate the symptoms or effects of the person's debil-
8 itating medical condition. Except as allowed in subsection [(2)] (4) of this section, a registry iden-
9 tification cardholder and that person's designated primary caregiver may not collectively possess,
10 deliver or produce more than the following:

11 (a) If the person is present at a location at which marijuana is not produced, including any
12 residence associated with that location, one ounce of usable marijuana; and

13 (b) If the person is present at a location at which marijuana is produced, including any residence
14 associated with that location[.];

15 (A) Three mature marijuana plants, four immature marijuana plants and one ounce of usable
16 marijuana per each mature plant;

17 (B) **Seven marijuana plants of any maturity level and a total of seven ounces of usable**
18 **marijuana; or**

19 (C) **If only one crop is grown annually at the location, 28 plants of any maturity level and**
20 **80 ounces of usable marijuana.**

21 (2) **The Department of Human Services shall record, on the registry identification card**
22 **of the person and in the list maintained by the department under ORS 475.331, whether the**
23 **person chooses to possess medical marijuana in the amounts authorized under subsection**
24 **(1)(b)(B) or (C) of this subsection.**

25 (3) **A registry identification cardholder or a designated primary caregiver may register**
26 **a grow site as a multiple-person grow site with the department. A multiple-person grow site**

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 **may provide medical marijuana for up to seven cardholders and may grow up to seven plants**
 2 **and possess up to seven ounces of usable marijuana for each cardholder.**

3 [(2)] (4)(a) If [the individuals described in subsection (1) of this section possess, deliver or
 4 produce] a registry identification cardholder or a designated primary caregiver possesses,
 5 delivers or produces marijuana in excess of the amounts allowed in subsection (1)(a) and (b)(A)
 6 of this section, [such individuals are] the cardholder or the caregiver is not excepted from the
 7 criminal laws of the state but may establish an affirmative defense to such charges, by a prepon-
 8 derance of the evidence, that the greater amount is medically necessary to mitigate the symptoms
 9 or effects of the [person's] debilitating medical condition of the cardholder.

10 (b) Notwithstanding paragraph (a) of this subsection, if a person possessing a valid reg-
 11 istry identification card elects to possess, deliver or produce the amounts of marijuana au-
 12 thorized under subsection (1)(b)(B) or (C) or (3) of this section may not assert the affirmative
 13 defense provided under this subsection.

14 [(3)] (5) The department [of Human Services] shall define by rule when a marijuana plant is
 15 mature and when it is immature for purposes of this section. **The rule shall provide that a plant**
 16 **that has no flowers and is less than 12 inches in height and 12 inches in diameter is a**
 17 **seedling or start and not a mature plant.**

18 **SECTION 2.** ORS 475.328 is amended to read:

19 475.328. (1) No professional licensing board may impose a civil penalty or take other disciplinary
 20 action against a licensee based on the licensee's medical use of marijuana in accordance with the
 21 provisions of ORS 475.300 to 475.346 or actions taken by the licensee that are necessary to carry
 22 out the licensee's role as a designated primary caregiver to a person who possesses a lawful registry
 23 identification card [issued pursuant to ORS 475.309].

24 (2)(a) A licensed health care professional may administer medical marijuana to a person
 25 who possesses a registry identification card and resides in a licensed health care facility if
 26 the administration of pharmaceuticals is within the scope of practice of the licensed health
 27 care professional. Administration of medical marijuana under this subsection may not take
 28 place in a public place as defined in ORS 161.015 or in the presence of a person under 18 years
 29 of age. If the medical marijuana administered under this subsection is smoked, adequate
 30 ventilation must be provided.

31 (b) Nothing in this subsection requires:

32 (A) A licensed health care professional to administer medical marijuana; or

33 (B) A licensed health care facility to make accommodations for the administration of
 34 medical marijuana.

35 **SECTION 3.** ORS 475.331 is amended to read:

36 475.331. (1)(a) The Department of Human Services shall create and maintain a list of the persons
 37 to whom the department has issued registry identification cards, [pursuant to ORS 475.309 and] the
 38 names of any designated primary caregivers **and the addresses of sites where medical marijuana**
 39 **is authorized to be grown.** Except as provided in subsection (2) of this section, the list shall be
 40 confidential and not subject to public disclosure.

41 (b) The department shall develop a system by which authorized employees of state and
 42 local law enforcement agencies may verify at all times that a person is a lawful possessor
 43 of a registry identification card or the designated primary caregiver of a lawful possessor of
 44 a registry identification card or that a location is an authorized medical marijuana grow site.

45 (2) Names and other identifying information from the list established pursuant to subsection (1)

1 of this section may be released to:

2 (a) Authorized employees of the department as necessary to perform official duties of the de-
3 partment; and

4 (b) Authorized employees of state or local law enforcement agencies, only as necessary to verify
5 that a person is a lawful possessor of a registry identification card or *[that a person is]* the desig-
6 nated primary caregiver of *[such a person]* **a lawful possessor of a registry identification card**
7 **or that a location is an authorized medical marijuana grow site. Prior to being provided**
8 **identifying information from the list, authorized employees of state or local law enforcement**
9 **agencies shall provide to the department adequate identification, such as a badge number or**
10 **similar authentication of authority.**

11 (3) **Authorized employees of state or local law enforcement agencies that obtain identi-**
12 **fying information from the list as authorized under this section may not release or use the**
13 **information for any purpose other than verification that a person is a lawful possessor of a**
14 **registry identification card or the designated primary caregiver of a lawful possessor of a**
15 **registry identification card or that a location is an authorized medical marijuana grow site.**

16 **SECTION 4. Section 5 of this 2005 Act is added to and made a part of ORS 475.300 to**
17 **475.346.**

18 **SECTION 5. (1) There is created the Advisory Committee on Medical Marijuana in the**
19 **Department of Human Services, consisting of 11 members appointed by the Director of Hu-**
20 **man Services.**

21 (2) **The director shall appoint members of the committee from persons who possess reg-**
22 **istry identification cards, designated primary caregivers of persons who possess registry**
23 **identification cards and advocates of the Oregon Medical Marijuana Act.**

24 (3) **The committee shall advise the director on the administrative aspects of the Oregon**
25 **Medical Marijuana Program, review current and proposed administrative rules of the pro-**
26 **gram and provide annual input on the fee structure of the program.**

27 (4) **The committee shall meet at least four times per year, at times and places specified**
28 **by the director.**

29 (5) **The department shall provide staff support to the committee.**

30 (6) **All agencies of state government, as defined in ORS 174.111, are directed to assist the**
31 **committee in the performance of its duties and, to the extent permitted by laws relating to**
32 **confidentiality, to furnish information and advice that the members of the committee con-**
33 **sider necessary to perform their duties.**

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