

House Bill 3370

Sponsored by Representative LININGER

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**.

Prohibits sale or transfer of certain types of marijuana products by person who holds license to sell marijuana at retail if marijuana products are not labeled. Specifies content of label.

Prohibits sale or transfer of marijuana items by person who holds license to sell marijuana at retail under certain circumstances.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to marijuana; creating new provisions; amending section 5, chapter 1, Oregon Laws 2015;
3 and declaring an emergency.

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

5 **SECTION 1.** Section 5, chapter 1, Oregon Laws 2015, is amended to read:

6 **Sec. 5.** As used in sections 3 to 70, **chapter 1, Oregon Laws 2015** [*of this Act*]:

7 (1) "Authority" means the Oregon Health Authority.

8 (2) "Commission" means the Oregon Liquor Control Commission.

9 (3) "Consumer" means a person who purchases, acquires, owns, holds[,] or uses marijuana items
10 other than for the purpose of resale.

11 (4) "Department" means the State Department of Agriculture.

12 (5)(a) [*Financial consideration,* except as provided in paragraph (b) of this subsection,] "**Finan-**
13 **cial consideration**" means value that is given or received directly or indirectly through sales,
14 barter, trade, fees, charges, dues, contributions or donations.

15 (b) "Financial consideration" does not mean any of the following:

16 (A) Homegrown marijuana made by another person.

17 (B) Homemade marijuana products made by another person.

18 (6) "Homegrown" or "homemade" means grown or made by a person 21 years of age or older for
19 noncommercial purposes.

20 (7) "Household" means a housing unit[,] and [*includes*] any place in or around the housing unit
21 at which the occupants of the housing unit are producing, processing, keeping[,] or storing
22 homegrown marijuana or homemade marijuana products.

23 (8) "Housing unit" means a house, an apartment[,] **or** a mobile home, **or** a group of rooms[,] or
24 a single room that is occupied as separate living quarters, in which the occupants live and eat
25 separately from any other persons in the building and [*which have*] **that has** direct access from the
26 outside of the building or through a common hall.

27 (9) "Immature marijuana plant" means a marijuana plant with no observable flowers or buds.

28 (10) "Licensee" means any person holding a license issued under **sections 3 to 70, chapter 1,**
29 **Oregon Laws 2015** [*this Act*], or any person holding a license or permit issued under any [*regulation*

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 *promulgated*] **rule adopted** under **section 7 (2)(e), chapter 1, Oregon Laws 2015** [*paragraph (e) of*
 2 *subsection (2) of section 7 of this Act*].

3 (11) “Licensee representative” means an owner, director, officer, manager, employee, agent[,] or
 4 other representative of a licensee, to the extent [*such*] **the** person acts in [*such*] **a** representative
 5 capacity.

6 (12)(a) “Marijuana” means all parts of the plant Cannabis family Moraceae, whether growing
 7 or not, other than marijuana extracts.

8 (b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300, or industrial hemp
 9 commodities or products.

10 [*(13) “Marijuana extract” means a product obtained by separating resins from marijuana by sol-*
 11 *vent extraction, using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol,*
 12 *ethanol, and carbon dioxide.*]

13 (13)(a) **“Marijuana extract” means a product containing cannabinoids that have been**
 14 **separated from marijuana, generally by chemical processes.**

15 (b) **“Marijuana extract” does not include:**

16 (A) **A product containing cannabinoids that have been separated from marijuana by me-**
 17 **chanical processes;**

18 (B) **A product containing cannabinoids that have been separated from marijuana using**
 19 **glycerin, fats, oils or water; or**

20 (C) **If no heat or pressure is used to separate the cannabinoids from the marijuana, a**
 21 **product containing cannabinoids that have been separated from marijuana using ethanol and**
 22 **carbon dioxide.**

23 (14)(a) “Marijuana flowers” means the flowers of the plant Cannabis family Moraceae.

24 (b) “Marijuana flowers” does not include any part of the plant other than the flowers.

25 (15) “Marijuana items” means marijuana, marijuana products[,] and marijuana extracts.

26 (16)(a) “Marijuana leaves” means the leaves of the plant Cannabis family Moraceae.

27 (b) “Marijuana leaves” does not include any part of the plant other than the leaves.

28 (17) “Marijuana processor” means a person who processes marijuana items in this state.

29 (18) “Marijuana producer” means a person who produces marijuana in this state.

30 [*(19)(a) “Marijuana products” means products that contain marijuana or marijuana extracts and*
 31 *are intended for human consumption.*]

32 (19)(a) **“Marijuana product” means:**

33 (A) **Food or potable liquid or any other product intended for oral consumption into which**
 34 **marijuana or a marijuana extract has been incorporated;**

35 (B) **Lotion, cream, gel, balm, oil, ointment or any other product meant to be applied to**
 36 **the surfaces of a person’s body, including skin, hair and mucous membranes; and**

37 (C) **A product containing cannabinoids described in subsection (13)(b) of this section.**

38 (b) “Marijuana [*products*] **product**” does not mean:

39 (A) Marijuana, by itself; or

40 (B) A marijuana extract, by itself.

41 (20) “Marijuana retailer” means a person who sells marijuana items to a consumer in this state.

42 (21) “Marijuana wholesaler” means a person who purchases marijuana items in this state for
 43 resale to a person other than a consumer in this state.

44 (22) “Mature marijuana plant” means any marijuana plant that is not an immature marijuana
 45 plant.

1 (23) “Noncommercial” means not dependent or conditioned upon the provision or receipt of fi-
 2 nancial consideration.

3 (24) “Person” means any natural person, corporation, professional corporation, nonprofit corpo-
 4 ration, cooperative corporation, profit or nonprofit unincorporated association, business trust, lim-
 5 ited liability company, general or limited partnership, joint venture[,] or any other legal entity.

6 (25) “Premises” or “licensed premises” means a location licensed under sections 3 to 70, **chap-**
 7 **ter 1, Oregon Laws 2015**, [of this Act] and includes:

8 (a) All enclosed areas at the location that are used in the business operated at the location,
 9 including offices, kitchens, rest rooms and storerooms, including all public and private areas;

10 (b) All areas outside [of] a building that the Oregon Liquor Control Commission has specifically
 11 licensed for the production, processing, wholesale sale[,] or retail sale of marijuana items; and

12 (c) For a location that the commission has specifically licensed for the production of marijuana
 13 outside [of] a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns,
 14 leases[,] or has a right to occupy.

15 (26)(a) “Processes” means:

16 (A) The processing, compounding[,] or conversion of marijuana into marijuana products or
 17 marijuana extracts;

18 (B) The processing, compounding[,] or conversion of marijuana, either directly or indirectly by
 19 extraction from substances of natural origin, or independently by means of chemical synthesis, or
 20 by a combination of extraction and chemical synthesis;

21 (C) The packaging or repackaging of marijuana items; or

22 (D) The labeling or relabeling of any package or container of marijuana items.

23 (b) “Processes” does not include:

24 (A) The drying of marijuana by a marijuana producer, if the marijuana producer is not otherwise
 25 processing marijuana; or

26 (B) The packaging and labeling of marijuana by a marijuana producer in preparation for delivery
 27 to a marijuana processor.

28 (27)(a) “Produces” means the manufacture, planting, cultivation, growing[,] or harvesting of
 29 marijuana.

30 (b) “Produces” does not include:

31 (A) The drying of marijuana by a marijuana processor, if the marijuana processor is not other-
 32 wise producing marijuana; or

33 (B) The cultivation and growing of an immature marijuana plant by a marijuana processor,
 34 marijuana wholesaler[,] or marijuana retailer if the marijuana processor, marijuana wholesaler[,] or
 35 marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

36 (28) “Public place” means a place to which the general public has access and includes, but is
 37 not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting
 38 rooms or apartments designed for actual residence, and highways, streets, schools, places of
 39 amusement, parks, playgrounds and [premises] **areas** used in connection with public passenger
 40 transportation.

41 (29) “Usable marijuana” means dried marijuana flowers and dried marijuana leaves, and any
 42 mixture or preparation [thereof] **of the flowers or leaves.**

43 **SECTION 2. Sections 3 and 4 of this 2015 Act are added to and made a part of sections**
 44 **3 to 70, chapter 1, Oregon Laws 2015.**

45 **SECTION 3. (1) Each individually packaged marijuana product described in section 5**

1 (19)(a)(A), chapter 1, Oregon Laws 2015, must be labeled in accordance with this section be-
2 fore the marijuana product is sold or otherwise transferred by a business located on a
3 premises licensed under section 22, chapter 1, Oregon Laws 2015, to a consumer.

4 (2) A label required by this section must:

5 (a) Contain a warning that the marijuana product is to be kept out of the reach of chil-
6 dren;

7 (b) Prominently and clearly denote the number of servings in the marijuana product and
8 the amount of time that should pass before an individual who has consumed a serving of the
9 marijuana product takes a subsequent serving of the marijuana product;

10 (c) Contain any information that is consistent with any other state or federal law, rule
11 or regulation prescribing a labeling requirement for that same type of food product or
12 potable liquid when the food product or potable liquid does not contain marijuana or a
13 marijuana extract; and

14 (d) Contain any other warning or information that the Oregon Liquor Control Commis-
15 sion considers necessary to prevent a risk of harm to the public health and safety.

16 **SECTION 4.** A marijuana retailer who owns or operates a business located on a premises
17 licensed under section 22, chapter 1, Oregon Laws 2015, may not sell or transfer a marijuana
18 item if the marijuana item:

19 (1) Is not packaged in child-resistant safety packaging that meets standards established
20 by the Oregon Liquor Control Commission by rule;

21 (2) Is processed or packaged in a manner that is attractive to minors, as determined by
22 the commission by rule;

23 (3) Is marketed in a manner that is untruthful, misleading or attractive to minors or
24 that otherwise creates a significant risk to public health and safety, as determined by the
25 commission by rule; or

26 (4) Contains an amount of a cannabinoid per serving, or a ratio of cannabidiol to
27 tetrahydrocannabinol, that is not fit for consumption, as determined by the commission by
28 rule.

29 **SECTION 5.** (1) Sections 3 and 4 of this 2015 Act and the amendments to section 5,
30 chapter 1, Oregon Laws 2015, by section 1 of this 2015 Act become operative on January 1,
31 2016.

32 (2) The Oregon Liquor Control Commission may take any action before the operative date
33 specified in subsection (1) of this section that is necessary to enable the commission to ex-
34 ercise, on and after the operative date specified in subsection (1) of this section, all the du-
35 ties, functions and powers conferred on the commission by sections 3 and 4 of this 2015 Act
36 and the amendments to section 5, chapter 1, Oregon Laws 2015, by section 1 of this 2015 Act.

37 **SECTION 6.** This 2015 Act being necessary for the immediate preservation of the public
38 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
39 on its passage.

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