

APPENDIX: FEDERAL AND STATE SANCTIONS AND LOCAL MUNICIPAL CODES

The possession, use, or distribution of illicit drugs is prohibited by federal law. Strict penalties are enforced for drug convictions, including mandatory prison terms for many offenses. The following information is an over- view of federal penalties for first convictions. All penalties are doubled for any subsequent drug conviction.

Federal Sanctions

Federal penalties and sanctions for illegal possession of a controlled substance. Additional penalties are imposed for trafficking.

21 U.S.C. 844(a) First conviction: Up to one year imprisonment and fined at least \$1,000 but not more than \$100,000, or both. After one prior drug conviction: At least 15 days in prison, not to exceed two years and fined at least \$2,500 but not more than \$250,000, or both. After two or more prior drug convictions: At least 90 days in prison, not to exceed three years and fined at least \$5,000 but not more than \$250,000, or both. Special sentencing provisions for possession of crack cocaine: Mandatory at least five years in prison, not to exceed 20 years and fined up to \$250,000, or both, if:

- 1) 1st conviction and the amount of crack possessed exceeds five grams.
- 2) 2nd crack conviction and the amount of crack possessed exceeds three grams.
- 3) 3rd or subsequent crack conviction and the amount of crack possessed exceeds one gram.

21 U.S.C. 853(a)(2) and 881(a)(7) Forfeiture of personal real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than one year imprisonment. (See special sentencing provisions re: crack.)

21 U.S.C. 881(c)(4) Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.

21 U.S.C. 844a Civil fine of up to \$10,000 (pending adoption of final regulations).

21 U.S.C. 853(a) Denial of Federal benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to one year for first offense, up to five years for second and subsequent offenses.

18 U.S.C. 922(g). Ineligible to receive or purchase a firearm.

Miscellaneous. Revocation of certain Federal licenses and benefits, e.g., pilot licenses, public housing tenancy, etc., are vested within the authorities of individual Federal agencies.

State of Oregon sanctions

These include: Oregon Chapter 471 – Alcoholic Liquors; Controlled Substances; Drugs

PROHIBITIONS RELATING TO LIQUOR

471.403 License required to produce alcoholic liquor; exception.

- (1) Except as provided in this section, a person may not brew, ferment, distill, blend or rectify any alcoholic liquor unless licensed so to do by the Oregon Liquor Control Commission.
- (2) The holder of a brewery-public house license or a brewery license may allow patrons to brew malt beverages not to exceed 14 percent alcoholic content by volume if the brewing is conducted under the direct supervision of the licensee or employees of the licensee. Malt beverages produced under this subsection may not be sold by the patron.
- (3) The holder of a winery license may allow patrons to make wine if the winemaking is conducted under the direct supervision of the licensee or employees of the licensee. Wine produced under this subsection may not be sold by the patron.
- (4) A person may make homemade beer, wine and fermented fruit juice as authorized under ORS 471.037. A person may provide assistance to another in making the homemade beer, wine or fermented fruit juice, if the person does not receive financial consideration as defined in ORS 471.037 for providing the assistance. [Formerly 471.205; 2007 c.414 §1; 2011 c.12 §4]

471.404 Importing liquor without license prohibited; exceptions; fee.

- (1) Alcoholic liquor may not be imported into this state by any person other than a holder of a brewery, winery, distillery or wholesaler's license, except as follows:
 - (a) Alcoholic liquor ordered by and en route to the Oregon Liquor Control Commission, under a certificate of approval issued by the commission.
 - (b) Wines for sacramental purposes according to rules adopted by the commission.
 - (c) Alcoholic liquor that is in transit on a common carrier to a destination outside Oregon.
 - (d) Alcoholic liquor coming into Oregon on a common carrier according to orders placed by a licensed brewery, winery or wholesaler.
 - (e) Grain and ethyl alcohol for scientific, pharmaceutical, manufacturing, mechanical or industrial use, under a certificate of approval issued by the commission.
 - (f) Wine or cider that is sold and transported by the holder of a wine self-distribution permit to a retail licensee that has the endorsement described in ORS 471.274 (5).
 - (g) Malt beverages, wine or cider shipped directly to a resident of this state under a direct shipper permit issued pursuant to ORS 471.282
- (2) The commission may require importers of alcoholic liquor to pay a reasonable handling fee based on the quantity and type of alcoholic liquor being imported. [Formerly 471.335; 2007 c.651 §6; 2007 c.854 §3; 2009 c.240 §3; 2015 c.673 §6]

471.405 Prohibited sales, purchases, possession, transportation, importation or solicitation in general; forfeiture upon conviction.

- (1) No person shall peddle or deliver alcoholic beverages to or at any place, where, without a license, alcoholic beverages are sold or offered for sale. No licensee shall sell or offer for sale any alcoholic beverage in a manner, or to a person, other than the license permits the licensee to sell.
- (2) No person shall purchase, possess, transport or import, except for sacramental purposes, an alcoholic beverage unless it is procured from or through the Oregon Liquor Control Commission, except as provided otherwise in the Liquor Control Act.
- (3) No person not licensed under the Liquor Control Act shall sell, solicit, take orders for or peddle alcoholic beverages
- (4) Notwithstanding the provisions of subsection (2) of this section, an individual entering the state may have in possession an amount not to exceed four liters (135.2 fluid ounces) of distilled liquor, two cases of wine or cider (620 fluid ounces) and two cases of malt beverages (576 fluid ounces). These quantities of alcoholic beverages are exempt from fees collected by the commission.
- (5) Upon conviction for unlawfully purchasing or importing alcoholic beverages into this state, the person convicted shall forfeit to the commission the alcoholic beverage so purchased or imported. The commission shall thereupon seize the forfeited beverage and it shall then become the commission's property. [Amended by 1953 c.120 §6; 1974 c.4 §5; 1981 c.600 §1; 1985 c.592 §2; 1987 c.608 §11; 1995 c.301 §19; 1999 c.351 §72]

471.406 Activities covered by prohibitions on sale of alcoholic beverages. Any prohibition on the sale of alcoholic beverages provided for in this chapter includes:

- (1) Soliciting orders for alcoholic beverages or receiving orders for alcoholic beverages.
- (2) Keeping alcoholic beverages for sale or exposing alcoholic beverages for sale.
- (3) Delivering alcoholic beverages for value or in any way other than purely gratuitously.
- (4) Peddling alcoholic beverages.
- (5) Keeping alcoholic beverages with intent to sell.
- (6) Trafficking in alcoholic beverages.
- (7) For any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means, procuring alcoholic beverages, or allowing alcoholic beverages to be procured, for any other person. [1995 c.301 §8 (enacted in lieu of 471.025); 1999 c.351 §57]

471.407 Offer of alcoholic beverages as inducement to make purchases.

Except as specifically provided in this chapter, a person who owns, operates or controls a business establishment that sells food or beverages for consumption at the establishment or that offers entertainment to the public for consideration may not provide alcoholic beverages to members of the public for consumption at the establishment, without regard to whether the beverages are offered on a purely gratuitous basis, if:

- (1) The alcoholic beverages are offered for the purpose of inducing members of the public to purchase food or beverages or to pay for entertainment; and

- (2) The person providing the alcoholic beverages does not hold a license issued under this chapter that authorizes the retail sale of alcoholic beverages. [1999 c.646 §8; 2001 c.104 §214]

471.408 Alcoholic liquor may not be given as prize; exception.

- (1) Except as otherwise provided in this section, alcoholic liquor may not be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.
- (2) A nonprofit or charitable organization registered in this state may auction or raffle alcoholic liquor as provided under ORS 471.162 (6) and may deliver or arrange for delivery of the alcoholic liquor to the residence of the successful bidder or raffle winner.
- (3) A charitable, fraternal or religious organization may offer alcoholic liquor as a prize, premium or consideration in a contest of chance described in ORS 167.117(7)(b) or conducted as part of a Monte Carlo event as defined in ORS 167.117.
- (4) An auction is not a lottery, contest, game of chance or skill or competition for purposes of this section. [1995 c.363 §2; 1997 c.191 §1; 1997 c.867 §25; 2013 c.150 §1]

471.410 Providing liquor to person under 21 or to intoxicated person; allowing consumption by minor on property; mandatory minimum penalties.

- (1) A person may not sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated
- (2) No one other than the person's parent or guardian may sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person is in a private residence and is accompanied by the parent or guardian. A person violates this subsection who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this subsection.
- (3) (a) A person who exercises control over private real property may not knowingly allow any other person under the age of 21 years who is not a child or minor ward of the person to consume alcoholic liquor on the property, or allow any other person under the age of 21 years who is not a child or minor ward of the person to remain on the property if the person under the age of 21 years consumes alcoholic liquor on the property.
(b) This subsection:
 - (A) Applies only to a person who is present and in control of the location at the time the consumption occurs;
 - (B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides; and
 - (C) Does not apply to a person who exercises control over a private residence if the liquor consumed by the person under the age of 21 years is supplied only by an accompanying parent or guardian.
- (4) This section does not apply to sacramental wine given or provided as part of a religious rite or service.

- (5) Except as provided in subsections (6) and (7) of this section, a person who violates subsection (1) or (2) of this section commits a Class A misdemeanor. Upon violation of subsection (2) of this section, the court shall impose at least a mandatory minimum sentence as follows:
 - (a) Upon a first conviction, a fine of at least \$500.
 - (b) Upon a second conviction, a fine of at least \$1,000.
 - (c) Upon a third or subsequent conviction, a fine of at least \$1,500 and not less than 30 days of imprisonment.
- (6) (a) A person who violates subsection (2) of this section is subject to the provisions of this subsection if the person does not act knowingly or intentionally and:
 - (A) Is licensed or appointed under this chapter; or
 - (B) Is an employee of a person licensed or appointed under this chapter and holds a valid service permit or has attended a program approved by the Oregon Liquor Control Commission that provides training to avoid violations of this section.

(b) For a person described in paragraph (a) of this subsection:

 - (A) A first conviction is a Class A violation.
 - (B) A second conviction is a specific fine violation, and the presumptive fine for the violation is \$860.
 - (C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000.
 - (D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days of imprisonment.
- (7) For an employee of an off-premises sales licensee who violates subsection (2) of this section while operating a checkout device and does not act knowingly or intentionally, a first conviction is a Class A violation.
- (8) The court may waive an amount that is at least \$200 but not more than one-third of the fine imposed under subsection (5) of this section, if the violator performs at least 30 hours of community service.
- (9) Except as provided in subsection (8) of this section, the court may not waive or suspend imposition or execution of the mandatory minimum sentence required by subsection (5) or (6) of this section. In addition to the mandatory sentence, the court may require the violator to make restitution for any damages to property where the alcoholic liquor was illegally consumed or may require participation in volunteer service to a community service agency.
- (10) (a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (3) of this section commits a Class A violation.

(b) A second or subsequent violation of subsection (3) of this section is a specific fine violation, and the presumptive fine for the violation is \$1,000.
- (11) Nothing in his section prohibits any licensee under this chapter from allowing a person who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or served any alcoholic liquor. [Amended by 1963 c.243 §1; 1971 c.159 §5; 1977 c.458 §1; 1977 c.814 §1; 1983 cor. c.736 §1; 1995 c.301 §40;

1995 c.599 §5; 1995 c.756 §1; 1999 c.351 §58; 2009 c.412 §1; 2009 c.587 §4; 2009 c.608 §3; 2011 c.597 §87; 2014 c.20 §3]

471.412 Allowing visibly intoxicated person to consume alcoholic beverages; good faith effort; effect on other liability; letters of reprimand.

- (1) A licensee or permittee may not allow a person to consume or to continue to consume alcoholic beverages on the licensed premises after observing that the person is visibly intoxicated.
- (2) A licensee or permittee is not in violation of subsection (1) of this section if the licensee or permittee makes a good faith effort to remove any unconsumed alcoholic beverages from the person's possession when the licensee or permittee observes that the person is visibly intoxicated.
- (3) Nothing in this section applies to determining liability under ORS 471.565.
- (4) Notwithstanding any other provision of law, the Oregon Liquor Control Commission shall only impose letters of reprimand for the first three violations of this section within a two year period. For license renewal purposes, the first three violations of this section in a two-year period do not apply in determining the past record of compliance under ORS 471.313 (4)(g). [1989 c.785 §2; 1995 c.301 §69; 2011 c.107 §2]

471.415 [Amended by 1955 c.657 §10; 1957 c.297 §1; repealed by 1995 c.301 §81]

471.417 [1985 c.306 §2; 1989 c.471 §1; repealed by 1995 c.301 §81]

471.420 [Amended by 1959 c.399 §1; 1971 c.680 §2; repealed by 1979 c.43 §1 and by 1979 c.190 §431]

471.425 Misrepresentations by licensee and others; maintenance of disorderly establishment.

- (1) No person shall make false representations or statements to the Oregon Liquor Control Commission in order to induce or prevent action by the commission.
- (2) No licensee of the commission shall maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious alcoholic beverages.
- (3) No licensee of the commission shall mis- represent to a customer or to the public any alcoholic liquor sold by such licensee.

471.430 Purchase or possession of alcoholic beverages by person under 21; entry of licensed premises by person under 21; penalty; immunity; suspension of driving privileges; assessment and treatment.

- (1) A person under 21 years of age may not attempt to purchase, purchase or acquire alcoholic beverages. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of age may not have personal possession of alcoholic beverages.
- (2) For the purposes of this section, personal possession of alcoholic beverages includes the acceptance or consumption of a bottle of such beverages, or any portion thereof or a drink of such beverages. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.
- (3) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

- (4) (a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (1) or (3) of this section commits a Class B violation.
(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of personal possession of alcoholic beverages while the person is operating a motor vehicle as defined in ORS 801.360.
- (5) In addition to and not in lieu of any other penalty established by law:
 - (a) The court may order a person who violates subsection (1) of this section through misrepresentation of age to perform community service; and
 - (b) The court shall order, when a person violates subsection (1) of this section, that the person's driving privileges and right to apply for driving privileges be suspended pursuant to ORS 809.260 and 809.280. The court notification made to the Department of Transportation under this paragraph may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.
- (6) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty established by law, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).
- (7) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment as provided in ORS 471.432. The court shall order a person to undergo assessment and treatment as provided in ORS 471.432 if the person has previously been found to have violated this section.
- (8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.
- (9) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.
- (10) (a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:
 - (A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance due to alcohol consumption and the evidence of the violation was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or
 - (B) The person was in need of medical assistance due to alcohol consumption and the evidence of the violation was obtained as a result of the person's having sought or obtained the medical assistance.
(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other

than a violation of this section. [Amended by 1963 c.243 §2; 1965 c.166 §1; 1971 c.159 §6; 1975 c.493 §1; 1979 c.313§8; 1991 c.860 §2; 1999 c.646 §1; 1999 c.1051 §186; 2001 c.791 §4; 2007 c.41 §1; 2007 c.298 §1; 2009 c.228 §1; 2011 c.355 §21; 2014 c.11 §1; 2017 c.20§1]

471.432 Examination for problem condition involving alcohol upon conviction; treatment program. When a person is ordered to undergo assessment and treatment as provided in ORS 471.430, the court shall require the person to do all of the following:

- (1) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 471.430.
- (2) Complete an examination by an agency or organization designated by the court to determine whether the person has a problem condition involving alcohol as described in ORS 813.040. The designated agencies or organizations must meet minimum standards established under ORS 430.357 to perform the diagnostic assessment and treatment of problem drinking and alcoholism and must be certified by the Director of the Oregon Health Authority.
- (3) Complete a treatment program, paid at the expense of the person convicted, as follows: (a) If the examination required under this section shows that the person has a problem condition involving alcohol, a program for rehabilitation for alcoholism approved by the director.
 - (b) If the examination required by this section shows that the person does not have a problem condition involving alcohol, an alcohol information program approved by the director. [1999 c.646 §2; 2009 c.595 §960; 2011 c.673 §39]

Note: 471.432 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

471.434 Immunity for violation of ORS 471.430 when reporting sexual assault crime.

- (1)(a) A person who contacts emergency medical services or a law enforcement agency to report a sexual assault crime, or to obtain medical or law enforcement assistance for a victim of a sexual assault crime, is immune from arrest or prosecution for a violation of ORS 471.430 if the evidence of the violation was obtained because the person contacted emergency medical services or a law enforcement agency.
- (b) A person who is the victim of a sexual assault crime is immune from arrest or prosecution for a violation of ORS 471.430 if the evidence of the violation was obtained because any person contacted emergency medical services or a law enforcement agency to report the crime or to obtain medical or law enforcement assistance for the victim.
- (2) The immunity from arrest or prosecution described in this section is not grounds for the suppression of evidence relating to a criminal offense other than a violation of ORS 471.430.
- (3) As used in this section, “sexual assault crime” means an offense described in ORS 163.355 to 163.427. [2017 c.347 §1]

Note: 471.434 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

471.435 [Repealed by 1953 c.120 §6]

471.440 Manufacture, fermentation or possession of mash, wort or wash; establishment or operation of distillery without license; prima facie evidence.

- (1) Except as provided in ORS 471.037 and 471.403, mash, wort or wash fit for distillation or for the manufacture of spirituous alcoholic liquors may not be made, fermented or possessed within this state by any person that does not at the time own a distillery license under the Liquor Control Act.
- (2) A distillery may not be set up or operated in this state for the purpose of manufacturing alcoholic liquor for beverage purposes except by a person duly licensed under the Liquor Control Act to operate a distillery. Any device or process that separates alcoholic spirits from any fermented substance shall be regarded as a distillery. A distillery is set up if the still is in position over a furnace, or is connected with a boiler, so that heat may be applied, although the worm or worm tank is not in position.
- (3) The finding of any mash, wort, wash or distillery in any house, on any premises or within any enclosure, is prima facie evidence that it was made and fermented by, or set up by, and the property of, the person who is in possession of the house, premises or enclosure. [Amended by 1999 c.351 §73; 2011 c.12 §5]

471.442 Wine compliance with standards.

- (1) No wine or cider shall be sold or offered for sale within this state unless it complies with the minimum standards fixed pursuant to law.
- (2) The Oregon Liquor Control Commission may require a manufacturer, importer or wholesaler to provide samples of a particular wine or cider, and to provide a laboratory analysis demonstrating to the satisfaction of the commission that the particular wine or cider complies with the minimum standards in this state.
- (3) No wine or cider offered for sale within this state may be altered or tampered with in any way by any person not licensed to do so by the commission.
- (4) The commission may prohibit the sale of any wine or cider for a reasonable period of time while it is determining whether the wine or cider complies with minimum standards in this state. [Formerly 471.340]

471.445 Use of misleading mark or label on container; mixing liquors.

- (1) No licensee shall use or allow the use of any mark or label on the container of alcoholic liquor which is kept for sale, if the container does not precisely and clearly indicate the nature of its contents or in any way might deceive any customer as to the nature, composition, quantity, age or quality of such liquor.
- (2) No licensee other than a winery licensee may mix or permit the mixing of any alcoholic liquor which the licensee is authorized to sell with any other alcoholic liquor which the licensee is not authorized by license to sell.

471.446 Seals on wine and cider containers; improper labeling; injurious or adulterated ingredients.

- (1) No retail licensee shall purchase any wine or cider for resale except in sealed containers, the seals of which shall remain unbroken when it is sold for consumption off the premises.
- (2) The Oregon Liquor Control Commission may refuse to sell, or may prohibit any licensee from selling, any brand of alcoholic liquor which in its judgment is deceptively labeled or branded as to content, or contains injurious or adulterated ingredients. [Formerly 471.345]

471.448 Sale of malt beverage as beer.

Malt beverages may not be labeled or otherwise designated as beer for purposes of retail sale in this state unless the malt beverage contains six percent or less alcohol by volume. [1995 c.301 §12; 1999 c.351 §15a]

471.450 [Repealed by 1971 c.116 §1]

471.452 [Amended by 1979 c.264 §8; 1989 c.178 §6; 1989 c.740 §4; 1989 c.785 §12; repealed by 1995 c.301 §81]

471.455 [Amended by 1957 c.297 §2; 1979 c.881 §4; 1981 c.80 §1; repealed by 1995 c.301 §81]

471.455 [1979 c.881 §7; 1987 c.511 §3; repealed by 1995 c.301 §81]

471.455 [1965 c.277 §1; repealed by 1995 c.301 §81]

471.460 [Amended by 1981 c.80 §2; repealed by 1995 c.301 §81]

471.463 [1965 c.277 §2; repealed by 1995 c.301 §81]

471.465 [Amended by 1955 c.657 §11; 1957 c.297 §3; 1981 c.435 §1; 1987 c.501 §1; repealed by 1995 c.301 §81]

471.470 [Amended by 1957 c.297 §4; repealed by 1995 c.301 §81]

471.473 Liquor store business loss compensation

- (1) A person appointed to operate a store established by the Oregon Liquor Control Commission under ORS 471.750 qualifies for the payment of business loss compensation under this section if:
 - (a) The system for selling containers of distilled liquor at retail in this state changes after the person assumes operation of the store; and
 - (b) The system change results from a law that prohibits the commission from purchasing or selling distilled liquor.
- (2) The purpose of business loss compensation is to offset the actual or presumed sales reduction and actual or perceived devaluation of a liquor store business following a system change described in subsection (1) of this section. The commission shall pay a person qualifying under this section business loss compensation equal to four percent of the average annual gross distilled liquor sales made by the store during the five years that preceded the system change, whether or not the person was the store operator during the entire five-year period. If the store has operated less than five years prior to the system change, the commission shall pay compensation equal to four percent of the average annual gross distilled liquor sales made by the store prior to the system change.

- (3) (a) The commission shall pay any business loss compensation due under this section from the suspense account described in ORS 471.805. Except as otherwise required by federal or state law or by contract, the commission shall give the payment of business loss compensation priority over the payment of other debts from the suspense account. (b) Notwithstanding ORS 279A.250 to 279A.290 or the revolving fund balance limit established in ORS 471.805, if a change in the system for selling containers of distilled liquor at retail in this state results in business loss compensation being payable under this section, and the commission declares within five years after the system change that a warehouse established by the commission under ORS 471.750 or the inventory of the commission is surplus property, the net proceeds from sale of the warehouse or inventory remaining after deduction of sales costs shall be deposited to the suspense account described in ORS 471.805. All moneys deposited under this paragraph shall be kept in a subaccount within the suspense account that indicates the source of the moneys. Notwithstanding ORS 471.805, moneys deposited to the suspense account under this paragraph may not be transferred to the Oregon Liquor Control Commission Account if any business loss compensation is owed and remains unpaid. This paragraph does not restrict the source for paying business loss compensation from the suspense account or alter the priority of business loss compensation payment established in paragraph (a) of this subsection.
- (4) If a person that receives business loss compensation under this section brings any action against the commission for damages resulting from a change in the system for selling containers of distilled liquor at retail in this state, the business loss compensation received by the person as a result of that system change shall be an offset against any damages awarded the person in the action. This subsection does not create any new cause of action.
- (5) Business loss compensation received by a person under this section does not affect the claiming of any tax deduction by the person for depreciation of equipment, fixtures or other property improvements, but is ordinary business income of the person, taxable as provided by law. [2015 c.228 §2]

471.475 Mixing, storing or serving of liquor without license.

No person who owns, operates or conducts a private or public club or place and who is not in possession of a license issued by the Oregon Liquor Control Commission permitting the mixing, storing and serving of alcoholic liquor at said premises, and no agent, servant or employee of such person, for a financial consideration by way of a charge for service, membership fee, admission fee, initiation fee, club dues, contributions, or other fee or charge, shall serve or permit to be served, or use or permit to be used, any room, place, bar, glasses, mixers, locker, storage place, chairs, tables, cash registers, music devices, furniture, furnishings, equipment or facilities, for the mixing, storing, serving or drinking of alcoholic liquor.

471.478 Sale of kegs of malt beverages; rules; penalty.

On and after January 1, 1978:

- (1) The Oregon Liquor Control Commission by rule shall require the identification of kegs of malt beverages sold directly to consumers who are not licensees of the commission and the signing of a receipt therefor by the purchaser in order to allow the kegs to be traced if the contents are consumed in violation of the Liquor Control Act. The keg

identification shall be in the form of a numbered label prescribed and supplied by the commission which identifies the seller and which is removable or obliterated when the keg is processed for refilling. The receipt shall be on a form prescribed and supplied by the commission and shall include the name and address of the purchaser; motor vehicle operator's license number, if any; the automobile registration of the motor vehicle in which the keg was removed from the seller's premises, if any; and such other identification as the commission by rule may require. The receipt shall contain a statement that must be signed by the purchaser that, under penalty of false swearing, the purchaser will not allow consumption of any malt beverage in the keg in violation of ORS 471.410. A copy of the receipt shall be given to the purchaser and the seller shall retain the original receipt for such period as the commission by rule may require.

- (2) Possession of a keg containing malt beverages which is not identified as required by subsection (1) of this section is a Class A misdemeanor.
- (3) A person who signs a receipt described in subsection (1) of this section in order to obtain a keg, knowing the receipt to be false, or who falsifies any information required on the receipt, is guilty of false swearing as prescribed by ORS 162.075.
- (4) As used in this section, "keg" means any brewery-sealed, individual container of malt beverage having a liquid capacity of more than seven gallons. [1977 c.551 §2; 1997 c.249 §173]

471.480 Sale of liquor by certain employees 18 years of age or older; minimum age requirements.

- (1) Any employee 18 years of age or older of a person who holds an off-premises sales license from the Oregon Liquor Control Commission may sell any alcoholic liquor authorized by such license on the licensed premises.
- (2) Any employee 18 years of age or older of a person who holds a wholesale malt beverage and wine license from the Oregon Liquor Control Commission may assist the licensee in the delivery of any alcoholic liquor authorized by such license.
- (3) During any inspection of a licensed premises, the commission may require proof that a person performing work at the premises meets any applicable minimum age requirement created under this chapter or under commission rules. If the person does not provide the commission with acceptable proof of age upon request, the commission may require the person to immediately cease any activity that is subject to a minimum age requirement until the commission receives acceptable proof of age. If the activity is the sole lawful basis for the person to be present on the premises, the commission may require that the person leave the premises. This subsection does not apply to a person temporarily at the premises to make a service, maintenance or repair call, to make a delivery or for other purposes independent of the premise's operations.
- (4) If a person performing work that is subject to a minimum age requirement has not provided proof of age requested by the commission under subsection (3) of this section, the commission may request that the licensee or a manager of the premises provide proof that the person meets any applicable minimum age requirement created under this chapter or under commission rules. Failure of the licensee or manager to respond to a request made under this subsection by providing acceptable proof of age for a person is prima facie evidence that the licensee has allowed the person to perform work at the licensed premises

in violation of a minimum age requirement. [1971 c.490 §1; 1985 c.378 §2; 1999 c.351 §34; 2011 c.92 §1]

471.482 Sale or service of liquor by employees 18 years of age or older generally; rules; minimum age requirements.

- (1) The holder of a license issued under this chapter may employ persons 18, 19 and 20 years of age who may take orders for, serve and sell alcoholic liquor in any part of the licensed premises when that activity is incidental to the serving of food except in those areas classified by the Oregon Liquor Control Commission as being prohibited to the use of minors. However, no person who is 18, 19 or 20 years of age shall be permitted to mix, pour or draw alcoholic liquor except when pouring is done as a service to the patron at the patron's table or drawing is done in a portion of the premises not prohibited to minors.
- (2) A person who is 18, 19 or 20 years of age may enter areas classified by the commission as being prohibited to the use of minors only for the purpose of ordering and picking up alcoholic liquor for service in other parts of the premises. However, the person shall not remain in the areas longer than is necessary to perform those duties.
- (3) The commission by rule may permit access to prohibited areas by any minor for nonalcoholic liquor employment purposes as long as the minor does not remain longer than is necessary to perform the duties.
- (4) During any inspection of a licensed premises, the commission may require proof that a person performing work at the premises meets any applicable minimum age requirement created under this chapter or under commission rules. If the person does not provide the commission with acceptable proof of age upon request, the commission may require the person to immediately cease any activity that is subject to a minimum age requirement until the commission receives acceptable proof of age. If the activity is the sole lawful basis for the person to be present on the premises, the commission may require that the person leave the premises. This subsection does not apply to a person temporarily at the premises to make a service, maintenance or repair call, make a delivery or for other purposes independent of the premises operations.
- (5) If a person performing work that is subject to a minimum age requirement has not provided proof of age requested by the commission under subsection (4) of this section, the commission may request that the licensee or a manager of the premises provide proof that the person meets any applicable minimum age requirement created under this chapter or under commission rules. Failure of the licensee or manager to respond to a request made under this subsection by providing acceptable proof of age for a person is prima facie evidence that the licensee has allowed the person to perform work at the licensed premises in violation of a minimum age requirement. [1981 c.610 §2; 1993 c.128 §2; 1995 c.301 §70; 1999 c.351 §59; 2011 c.92 §2]

471.485 Payment required on or before delivery of liquor.

No wholesale licensee or agent or employee thereof shall sell or deliver, nor shall any retail licensee purchase or receive any malt beverages, cider or wine for currency on delivery, but such malt beverages, cider or wine shall be paid for prior to delivery thereof, by electronic fund transfer initiated on or before the date of delivery, or by valid check, or- der, negotiable instrument or voucher payable on the date of delivery. The wholesale licensee may accept cash

at the time of delivery if such acceptance does not create or increase the licensee's, or the agents' or employees' of the licensee, exposure to or risk of being victimized by criminal activity. [1971 c.694 §2; 1995 c.525 §1; 1999 c.351 §74]

471.490 Delivery or acceptance of instrument drawn upon insufficient funds or not payable according to terms; use of credit.

No retail licensee shall deliver any check, order, negotiable instrument or voucher in payment for malt beverages, cider or wine, knowing at the time of such delivery that the maker or drawer has not sufficient funds in the bank or depository to pay the instrument on presentation, nor shall any wholesale licensee accept any such instrument knowing that said instrument is not payable according to its terms, or that there are not sufficient funds to pay such instrument on presentation. Any extension or acceptance of credit under this section shall constitute a violation of ORS 471.398. [1971 c.694 §3; 1995 c.301 §85; 1999 c.351 §75]

471.495 Report by wholesaler of instruments not paid on presentment required.

Any wholesale licensee who receives a check, order, negotiable instrument or voucher in payment for malt beverages, cider or wine, who receives an instrument from a retail licensee which, upon presentation, is not paid by the party on whom it is drawn, shall report such fact forthwith to the Oregon Liquor Control Commission. [1971 c.694 §4; 1999 c.351 §76]

471.500 Application of ORS 471.485 to 471.495.

The provisions of ORS 471.485, 471.490 and 471.495 shall not apply to any common carrier licensed by the Oregon Liquor Control Commission. [1971 c.694 §5; 1995 c.301 §41]

471.500 Malt beverage container refunds.

Nothing in this chapter prevents a brewery licensed under ORS 471.221 or a brewery-public house licensed under ORS 471.200 from establishing a refund value for malt beverage containers under the provisions of ORS 459A.705 that is in excess of five cents, or in excess of 10 cents as described in ORS 459A.705 (2), per container for the purpose of encouraging purchasers to return the containers directly to the brewery or brewery-public house. A refund value in excess of five cents, or in excess of 10 cents as described in ORS 459A.705 (2), per container may be paid under this section only to persons who are not licensed under this chapter and who return the containers directly to the brewery or brewery-public house. [1997 c.803 §10; 1999 c.351 §60; 2011 c.277 §4; 2016 c.3 §7]

471.500 [1981 c.917 §2; renumbered 474.105 in 1989]

471.500 [1981 c.917 §3; renumbered 474.115 in 1989]

471.505 [Repealed by 1983 c.350 §276 (471.506 enacted in lieu of 471.505)]

LOCAL OPTION

471.506 Petition and election for local option.

- (1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question whether the sale, for beverage purposes, of alcoholic liquors of any of the classes described in this section shall be prohibited in the city or county.

The classes of alcoholic liquor to which this section applies are:

- (a) Alcoholic liquors containing more than five percent alcohol by volume;
 - (b) Alcoholic liquors containing more than 14 percent alcohol by volume;
 - and (c) All alcoholic liquors.
- (2) Except as provided in subsections (3), (4) and (5) of this section, the requirements for preparing, circulating and filing a petition under this section:
 - (a) In the case of a city, shall be as provided for an initiative petition under ORS 250.265 to 250.346.
 - (b) In the case of a county, shall be as provided for an initiative petition under ORS 250.165 to 250.235.
 - (3) A petition under subsection (2) of this section:
 - (a) Must be filed not less than 60 days before the day of the election;
 - (b) Must specify whether the prohibition would apply to the sale of all alcoholic liquors or only to alcoholic liquors containing more than five percent alcohol by volume or more than 14 percent alcohol by volume; and
 - (c) Must be signed by not less than 10 per- cent of the electors registered in the city or county.
 - (4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.
 - (5) No signature is valid unless signed within 180 days before the petition is filed.
 - (6) An election under this section shall be held at the time of the next statewide general election.
 - (7) An election under this section shall be conducted under ORS chapters 246 to 260.
[1983 c.350
§277 (471.506 enacted in lieu of 471.505); 1995 c.301 §87]

471.510 Sales not affected by local option laws.

ORS 471.506 shall not prohibit the sale of pure alcohol for scientific or manufacturing purposes, or of wines to church officials for sacramental purposes, nor shall it prevent any person residing in the county or city from ordering and having delivered to the home of the person, for the personal use of self and family, alcoholic liquors purchased from the Oregon Liquor Control Commission or from persons duly licensed to sell them under the Liquor Control Act. [Amended by 1999 c.351 §35]

471.515 Effective date of local option.

In each county or city that returns a majority vote for or against prohibition, as to any classes of alcoholic liquor, the law shall take effect on January 1 following the day of election.

[Amended by 1983 c.350 §278]

471.520 [Amended by 1979 c.190 §422; repealed by 1983 c.350 §331a]

471.525 [Repealed by 1983 c.350 §331a]

471.530 [Amended by 1957 c.231 §1; re- pealed by 1983 c.350 §331a]

471.535 [Repealed by 1983 c.350 §331a]

471.540 [Amended by 1983 c.83 §93; re- pealed by 1983 c.350 §331a]

ALCOHOL EDUCATION PROGRAM

471.540 Alcohol Education Program.

The Oregon Liquor Control Commission shall establish an Alcohol Education Program. The Alcohol Education Program shall consist of all the duties of the commission in administering clerk training courses under ORS 471.341 and alcohol server education courses under ORS 471.542. [2001 c.785 §14]

471.540 Alcohol server education course and examination; exemption; fees; rules.

- (1) Except as provided in subsection (2) of this section, the Oregon Liquor Control Commission shall require a person applying for issuance or renewal of a service permit or any license that authorizes the sale or service of alcoholic beverages for consumption on the premises to complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the permit or license.
- (2) A person applying for issuance or renewal of a license that authorizes the sale or service of alcoholic beverages for consumption on the premises need not complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the license if:
 - (a) The license has been restricted by the commission to prohibit sale or service of alcoholic beverages for consumption on the premises; or
 - (b) The person applying for issuance or renewal of the license submits a sworn statement to the commission stating that the person will not engage in sale or service of alcoholic beverages for consumption on the premises, will not directly supervise or manage persons who sell or serve alcoholic beverages on the premises, and will not participate in establishing policies governing the sale or service of alcoholic beverages on the premises.
- (3) The commission by rule shall establish requirements that licensees and permittees must comply with as a condition of requalifying for a license or permit. The licensee or permittee must comply with those requirements once every five years after completing the initial alcohol server education course and examination. The requirements established by the commission to requalify for a license may include retaking the alcohol server education course and examination. The requirements established by the

commission to requalify for a service permit shall include retaking the alcohol server education course and examination.

- (4) The commission may extend the time periods established by this section upon a showing of hardship. The commission by rule may exempt a licensee from the requirements of this section if the licensee does not participate in the management of the business.
- (5) The standards and curriculum of alcohol server education courses shall include but not be limited to the following:
 - (a) Alcohol as a drug and its effects on the body and behavior, especially driving ability.
 - (b) Effects of alcohol in combination with commonly used legal, prescription or nonprescription, drugs and illegal drugs.
 - (c) Recognizing the problem drinker and community treatment programs and agencies.
 - (d) State alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated persons, sale for on-premises or off-premises consumption, hours of operation and penalties for violation of the laws.
 - (e) Drunk driving laws and liquor liability statutes.
 - (f) Intervention with the problem customer, including ways to cut off service, ways to deal with the belligerent customer and alternative means of transportation to get the customer safely home.
 - (g) Advertising and marketing for safe and responsible drinking patterns and standard operating procedures for dealing with customers.
- (6) The commission shall impose a fee not to exceed \$2.60 a year for each license subject to the alcohol server education requirement, and a fee not to exceed \$13 for each service permit application. These fees shall be used for administrative costs of the Alcohol Education Program established under ORS 471.541 and shall be in addition to any other license or permit fees required by law or rule.
- (7) The commission shall adopt rules to impose reasonable fees for administrative costs on alcohol server education course instructors and providers.
- (8) The commission shall provide alcohol server education courses and examinations through independent contractors, private persons or private or public schools certified by the commission. The commission shall adopt rules governing the manner in which alcohol server education courses and examinations are made available to persons required to take the course. In adopting rules under this subsection, the commission shall consider alternative means of providing courses, including but not limited to providing courses through audiotapes, videotapes, the Internet and other electronic media. [1985 c.658 §§2,3; 1987 c.851 §3; 1989 c.120 §6; 1989 c.178 §7; 1989 c.271 §1; 1997 c.803 §7; 1999 c.351 §36; 1999 c.1062 §8; 2001 c.785 §16; 2009 c.350 §4; 2011 c.9 §65]

471.545 [Repealed by 1983 c.350 §331a]

471.547 Alcohol Server Education Advisory Committee; members; purpose.

- (1) The Oregon Liquor Control Commission shall establish an Alcohol Server Education Advisory Committee. The advisory committee shall consist of the following members:
 - (a) One person who represents the commission
 - (b) One person who represents the Oregon State Police.
 - (c) One person who represents the Oregon District Attorneys Association.
 - (d) One person who represents the Oregon Health Authority.
 - (e) One person who represents the Department of Transportation.
 - (f) One person who represents a nonprofit organization the purpose of which is to reduce the incidence of drunk driving.
 - (g) One person who has general expertise in education.
 - (h) One person who has expertise in health education.
 - (i) One person who represents classroom alcohol server education providers.
 - (j) One person who represents online alcohol server education providers.
 - (k) At least one person who is a service permittee under ORS 471.360.
 - (l) Not more than two persons who represent insurance companies. (m) Not more than three persons who represent retail licensees.
- (2) The purpose of the advisory committee is to assist in the development of:
 - (a) The standards, curriculum and materials for the alcohol server education courses required under ORS 471.542;
 - (b) The examination required by ORS 471.542, and procedures for administering that examination;
 - (c) The certification procedures, enforcement policies and penalties for alcohol server education course instructors and providers; and
 - (d) The time requirements for completion of an alcohol server education course and examination and the conditions for probationary extension. [1985 c.658 §1; 1987 c.679 §1; 1991 c.67 §143; 1991 c.453 §3; 2001 c.785 §17; 2009 c.595 §961; 2013 c.58 §1]

471.549 Civil penalty. In addition to such other sanctions as may be authorized by law, the Oregon Liquor Control Commission may impose a civil penalty not to exceed \$1,000 against any alcohol server education course instructor or provider who violates a rule promulgated by the commission pursuant to ORS 471.542. The civil penalty may be in addition to or in lieu of any suspension, revocation or cancellation of the certification of an alcohol server education course instructor or provider. [1991 c.61§4; 2001 c.785 §18]

471.550 [Repealed by 1983 c.350 §331a]

WARNING SIGNS RELATED TO ALCOHOL AND PREGNANCY

471.549 Warning signs required; contents; size; display.

- (1) Any person in possession of a valid retail liquor license, who sells liquor by the drink for consumption on the premises or sells for consumption off the premises, shall post a sign informing the public of the effects of alcohol consumption during pregnancy.
- (2) The sign shall:
 - (a) Contain the message: "Pregnancy and alcohol do not mix. Drinking alcoholic beverages, including wine, coolers and beer, during pregnancy can cause birth defects."
 - (b) Be either:
 - (A) A large sign, no smaller than eight and one-half inches by 11 inches in size with lettering no smaller than five-eighths of an inch in height; or
 - (B) A reduced sign, five by seven inches in size with lettering of the same proportion as the large sign described in paragraph (a) of this subsection.
 - (c) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.
 - (d) Be in English unless a significant number of the patrons of the retail premises use a language other than English as a primary language. In such cases, the sign shall be worded in both English and the primary language or languages of the patrons.
 - (e) Be displayed on the premises of all licensed retail liquor premises as either a large sign at the point of entry, or a reduced sized sign at points of sale.
- (3) The person described in subsection (1) of this section shall be encouraged to also post signs of any size at places where alcoholic beverages are displayed.
- (4) Notwithstanding ORS 471.561, the holder of a retail liquor license may produce the sign required by this section insofar as the sign is consistent with the standards established pursuant to this section, ORS 616.286 and 624.060 and the Oregon Liquor Control Commission, and is displayed in accordance with subsection (2)(e) of this section. [1991 c.324 §2; 1995 c.301 §42]

471.553 Consultation with certain groups on production and posting of signs. The Oregon Liquor Control Commission shall consult with representatives of business and industry as well as interested citizens groups, including the March of Dimes and the Junior League, to determine the most cost-effective, convenient method to produce and post the sign described in ORS 471.551, which shall be distributed by the commission. [1991 c.324 §3]

471.555 [Repealed by 1957 c.231 §2 (471.556 enacted in lieu of 471.555)]

471.556 [1957 c.231 §3 (enacted in lieu of 471.555); 1979 c.190 §423; repealed by 1983 c.350 §331a]

471.557 Solicitation of private funds. The Oregon Liquor Control Commission may solicit private funds, if necessary, to produce and distribute the signs. [1991 c.324 §4]

471.559 Violations; penalty.

- (1) If no warning sign is posted:

- (a) The Oregon Liquor Control Commission shall furnish a warning sign.
- (b) The retailer shall have five days from the receipt of the warning sign to post it appropriately.
- (2) If there is a violation of this section or of ORS 471.551, the violator shall be subject to:
 - (a) A written warning from the commission for the first violation accompanied by a copy of the sign.
 - (b) A civil penalty of not to exceed \$25 payable to the commission for a second violation.
 - (c) A civil penalty of not to exceed \$25 for the third and subsequent violations for each day the sign is not posted.
- (3) The civil penalty imposed under subsection (2) of this section shall be separate from any other sanction or penalty imposed by the commission and shall not be used in any progressive violation schedule.
- (4) The penalty provided by this section shall be the sole penalty for violation of this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991.
- (5) Violation of this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991, shall not be grounds for refusal to issue a license, cancellation of a license or suspension of a license issued under this chapter.
- (6) Nothing in this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991, creates any new cause of action or any private right of any person.

[1991 c.324 §5; 2011 c.597 §213]

471.560 [Repealed by 1983 c.350 §331a]

471.561 Production and distribution of signs. By June 30, 1992, the Oregon Liquor Control Commission shall produce and complete distribution of the warning signs, free of charge, to all holders of retail liquor licenses. The commission shall produce and distribute additional signs as liquor licenses are granted. [1991 c.324 §9]

LIABILITY FOR PROVIDING OR SERVING ALCOHOLIC BEVERAGES TO INTOXICATED PERSON OR MINOR

471.565 Liability for providing or serving alcoholic beverages to intoxicated person; notice of claim.

- (1) A patron or guest who voluntarily consumes alcoholic beverages served by a person licensed by the Oregon Liquor Control Commission, a person holding a permit issued by the commission or a social host does not have a cause of action, based on statute or common law, against the person serving the alcoholic beverages, even though the alcoholic beverages are served to the patron or guest while the patron or guest is visibly intoxicated. The provisions of this subsection apply only to claims for relief based on injury, death or damages caused by intoxication and do not apply to claims for relief based on injury, death or damages caused by negligent or intentional acts other than the service of alcoholic beverages to a visibly intoxicated patron or guest.

- (2) A person licensed by the Oregon Liquor Control Commission, person holding a permit issued by the commission or social host is not liable for damages caused by intoxicated patrons or guests unless the plaintiff proves by clear and convincing evidence that:
 - (a) The licensee, permittee or social host served or provided alcoholic beverages to the patron or guest while the patron or guest was visibly intoxicated; and
 - (b) The plaintiff did not substantially contribute to the intoxication of the patron or guest by:
 - (A) Providing or furnishing alcoholic beverages to the patron or guest;
 - (B) Encouraging the patron or guest to consume or purchase alcoholic beverages or in any other manner; or
 - (C) Facilitating the consumption of alcoholic beverages by the patron or guest in any manner.
- (3) Except as provided in subsection (4) of this section, an action for damages caused by intoxicated patrons or guests off the premises of a person licensed by the Oregon Liquor Control Commission, a person holding a permit issued by the commission or a social host may be brought only if the person asserting the claim has given the licensee, permittee or social host the notice required by subsection (5) of this section within the following time periods:
 - (a) If a claim is made for damages arising out of wrongful death, notice must be given within one year after the date of death, or within one year after the date that the person asserting the claim discovers or reasonably should have discovered the existence of a claim under this section, whichever is later.
 - (b) If a claim is made for damages for injuries other than wrongful death, notice must be given within 180 days after the injury occurs, or within 180 days after the person asserting the claim discovers or reasonably should have discovered the existence of a claim under this section, whichever is later.
- (4) The time provided for the giving of notice under subsection (3) of this section does not include any period during which:
 - (a) The claimant is under 18 years of age;
 - (b) The claimant is unable to give notice by reason of the injury or by reason of being financially incapable, as defined in ORS 125.005, or is incapacitated, as defined in ORS 125.005; or
 - (c) The claimant is unable to determine that the licensee, permittee or social host is liable because the patron or guest who caused the damages asserts a right against self-incrimination and cannot be compelled to reveal the identity of the licensee, permittee or social host, or cannot be compelled to reveal facts that would establish the liability of the licensee, permittee or social host.
- (5) A licensee, permittee or social host shall be considered to have been given notice for the purposes of this section if:
 - (a) The licensee, permittee or social host is given formal notice in the manner specified in subsection (6) of this section;

- (b) The licensee, permittee or social host receives actual notice as described in subsection (7) of this section;
 - (c) An action is commenced by or on behalf of the claimant within the period of time specified by subsections (3) and (4) of this section; or
 - (d) Any payment on the claim is made to the claimant by or on behalf of the licensee, permittee or social host.
- (6) Formal notice of a claim subject to this section must be in writing, must be mailed to the licensee, permittee or social host, or personally served on the licensee, permittee or social host, and must contain all of the following:
- (a) A statement that a claim for damages is made against the licensee, permittee or social host.
 - (b) A description of the time, place and circumstances giving rise to the claim, so far as known to the claimant.
 - (c) The name of the claimant and mailing address for the claimant to which correspondence regarding the claim may be mailed.
- (7) For the purposes of this section, “actual notice” means any communication to a licensee, permittee or social host that gives the licensee, permit- tee or social host actual knowledge of the time, place and circumstances of the claim, if the communication is such that a reasonable person would conclude that a particular person intends to assert a claim against the licensee, permittee or social host.
[Formerly 30.950]

Note: 471.565 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

471.567 Liability for providing alcoholic beverages to minor; liability of minor for misrepresentation of age.

- (1) Notwithstanding ORS 471.130 and 471.565, no licensee, permittee or social host shall be liable to third persons injured by or through persons under the age of 21 years who obtained alcoholic beverages from the licensee, permittee or social host unless it is demonstrated that a reasonable person would have determined that identification should have been requested or that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served.
- (2) A person who is under 21 but at least 18 years of age and who through misrepresentation of age causes an Oregon Liquor Control Commission licensee to be fined or have a license suspended or revoked shall be civilly liable for damages sustained by the licensee. The court may award reasonable attorney fees to the prevailing party in an action under this subsection.
- (3) Subsection (2) of this section does not apply to a person under the age of 21 years who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years.

- (4) Subsection (2) of this section does not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years. [Formerly 30.960]

Note: 471.567 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

USE OF ALCOHOLIC BEVERAGES IN CAREER EDUCATION OF MINOR

471.575 School district culinary arts classes.

- (1) Notwithstanding ORS 471.410, an employee of a school district may make alcoholic beverages available to a student in a culinary arts class for use in the culinary arts class if the alcoholic beverages are provided in compliance with a policy adopted under ORS 336.441.
- (2) Notwithstanding ORS 471.430, a student of a culinary arts class may have personal possession of alcoholic beverages for use in the culinary arts class if the student has possession of the alcoholic beverages in compliance with a policy adopted under ORS 336.441. [2011 c.367 §3]

471.580 Education provider food or beverage career programs.

- (1) As used in this section:
 - (a) "Alcohol equivalence" means the amount of ethanol that would be expected to be present in a beverage based on the standard drink measurement used by the Centers for Disease Control and Prevention.
 - (b) "Education provider" means:
 - (A) A community college, as defined in ORS 341.005, offering a food or beverage career program approved by the Higher Education Coordinating Commission;
 - (B) A career school, as defined in ORS 345.010, offering a food or beverage career program approved by the Higher Education Coordinating Commission;
 - (C) A public university offering a food or beverage career program approved by the Higher Education Coordinating Commission or by the governing board of a public university listed in ORS 352.002; or
 - (D) A private and independent institution of higher education, as defined in ORS 350.635, offering a food or beverage career program that qualifies for payment under ORS 350.645.
 - (c) "Food or beverage career program" means a course of study designed to qualify a person for a career in the food service industry or alcoholic beverage industry, including but not limited to a course of study in culinary arts, viticulture, winemaking, enology, brewing or restaurant management.
- (2) The charging or payment of tuition or a special fee for enrollment in a class that is part of a food or beverage career program or in a workshop or seminar concerning matters

related to food or beverage industry workforce training, offered by an education provider, that includes the consumption of alcoholic beverages for educational purposes, is not a sale or purchase of, or other exchange of consideration for, alcoholic beverages.

- (3) Notwithstanding ORS 471.130, 471.406, 471.410 and 471.475, an education provider may serve alcoholic beverages to a person who is 18, 19 or 20 years of age and may allow the person to possess and consume alcoholic beverages on a licensed or unlicensed premises that the education provider uses for educational purposes if:
 - (a) The person is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;
 - (b) The alcoholic beverages are served to, and possessed and consumed by, the person for educational purposes as part of the class curriculum or a workshop or seminar concerning food or beverage workforce training;
 - (c) The service, possession and consumption of the alcoholic beverages are supervised by a faculty or staff member of the education provider who is 21 years of age or older;
 - (d) The person does not purchase the alcoholic beverages; and
 - (e) The amount served to the person for consumption purposes during any two-hour class, workshop or seminar period does not exceed two ounces of alcohol equivalence.
- (4) Notwithstanding ORS 471.130 or 471.410, a person may serve alcoholic beverages to another person who is 18, 19 or 20 years of age on premises that an education provider uses for educational purposes if:
 - (a) The person served is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;
 - (b) The alcoholic beverages are served to, and consumed by, the person for educational purposes as part of the class curriculum or, with the approval of the education provider, as part of a workshop or seminar concerning food or beverage workforce training;
 - (c) The service and consumption of the alcoholic beverages are supervised by a faculty or staff member of the education provider who is 21 years of age or older;
 - (d) The person served does not purchase the alcoholic beverages; and
 - (e) The amount served to the person for consumption purposes during any two-hour class period does not exceed two ounces of alcohol equivalence.
- (5) Notwithstanding ORS 471.130 or 471.410 or the prohibitions in ORS 471.430, a person who is 18, 19 or 20 years of age may possess and consume alcoholic beverages on a licensed or unlicensed premises that an education provider uses for educational purposes if:
 - (a) The person is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;
 - (b) The person possesses and consumes the alcoholic beverages for educational purposes as part of the class curriculum or, with the approval of the education provider, as part of a workshop or seminar concerning food or beverage workforce training;

- (c) The person possesses and consumes the alcoholic beverages under the supervision of a faculty or staff member of the education provider who is 21 years of age or older;
 - (d) The person does not purchase the alcoholic beverages; and
 - (e) The amount consumed by the person during any two-hour class, workshop or seminar period does not exceed two ounces of alcohol equivalence.
- (6) Notwithstanding ORS 471.410, a person who exercises control over private real property may allow a person who is 18, 19 or 20 years of age to remain on the property after the person who is 18, 19 or 20 years of age consumes an alcoholic beverage on the property in accordance with this section.
- (7) Subsections (3) to (5) of this section do not affect the ability of an education provider, a licensee or a permittee to make alcoholic beverages available to a person 21 years of age or older in accordance with this chapter or the ability of a person 21 years of age or older to possess or consume alcoholic beverages in accordance with this chapter.
- [2011 c.378
§2; 2012 c.104 §44; 2013 c.1 §§73,74; 2013 c.747 §§166,167; 2013 c.768 §§144,145; 2015 c.767 §176]

ENFORCEMENT OF LIQUOR LAWS

471.605 Duty of officers to enforce and to inform district attorney.

The state police, sheriffs, constables and all police officers within the State of Oregon shall enforce all provisions of the Liquor Control Act and assist the Oregon Liquor Control Commission in detecting violations of that statute and apprehending offenders. Each such enforcing officer having notice, knowledge or reasonable ground of suspicion of any violation of that statute shall immediately notify the district attorney, and furnish the district attorney with names and addresses of any witnesses, or other information within the officer's knowledge, of such violation.

471.610 Confiscation of liquor and property by commission.

Whenever any officer arrests any person for violation of the Liquor Control Act, the officer may take into possession all alcoholic liquor and other property which the person so arrested has in possession, or on the premises, which is apparently being used in violation of that statute. If the person so arrested is convicted, and it is found that the liquor and other property has been used in violation of the law, the same shall be forfeited to the Oregon Liquor Control Commission, and shall be delivered by the court or officer to the commission. The commission is authorized to destroy or make such other disposition thereof as it considers to be in the public interest. In any such case, all alcoholic liquor purchased or acquired from any source, and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, furniture, furnishings, equipment and facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be confiscated and forfeited to the state, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund in the manner provided in this section. [Amended by 1981 c.601 §1; 1987 c.858§5]

471.615 Duty to notify commission of conviction of licensee. The county courts, district attorneys and municipal authorities, immediately upon the conviction of any licensee of the Oregon Liquor Control Commission of a violation of any provision of the Liquor Control Act or the violation of any other law of this state or ordinance of any municipality therein, in which violation alcoholic liquor had any part, shall notify the commission thereof. Such officials shall notify the commission of any acts, practices or other conduct of any such licensee which may be subversive of the general welfare or contrary to the spirit of the Liquor Control Act and shall recommend such action on the part of the commission as will remove the evil.

471.620 Property and places as common nuisances. Any room, house, building, boat, structure or place of any kind where alcoholic liquor is sold, manufactured, bartered or given away in violation of the law, or where persons are permitted to resort for the purpose of drinking alcoholic beverages in violation of the law, or any place where such beverages are kept for sale, barter or gift in violation of the law, and all liquor or property subject to confiscation under ORS 471.610 kept and used in such place is a common nuisance. Any person who maintains or assists in maintaining such common nuisance or knowingly suffers or permits such nuisance to exist in any place of which the person is the owner, manager or lessor, shall be guilty of a violation of the Liquor Control Act.

471.625 Lien on place used to unlawfully handle liquor. If it is proved that the owner of any building or premises knowingly has suffered the same to be used or occupied for the manufacture, sale or possession of alcoholic beverages, contrary to the provisions of the Liquor Control Act, such building or premises are subject to a lien for, and may be sold to pay all fines and costs assessed against their occupants for any violation of that statute. The lien shall be enforced immediately by civil action in any court having jurisdiction, by the district attorney of the county wherein the building or premises are located.

471.630 Authority to abate nuisance. The Attorney General, the Oregon Liquor Control Commission or its administrators, or the district attorney of the county wherein a nuisance as defined in ORS 471.620 exists, or where it has existed but has temporarily ceased and there is good and sufficient cause to believe that it will be maintained in the future, may institute an action in the circuit court for such county in the name of the state to abate, and to temporarily and permanently enjoin, such nuisance. The court has the right to make temporary and final orders as in other injunction proceedings. The plaintiff shall not be required to give bond in such action. [Amended by 1979 c.284 §155]

471.635 Issuance of restraining order.

- (1) After a suit is commenced under ORS 471.630, application for a temporary injunction may be made to the court, which shall grant a hearing thereon within 10 days. Where such application has been made, the court, on application of the plaintiff, may issue an ex parte order restraining the defendants and all other persons from removing or in any manner interfering with the personal property and the contents of the room, house, building, boat, structure or place of any kind where the nuisance is alleged to

exist, until the decision of the court granting or refusing such temporary injunction and until the further order of the court.

- (2) This section and ORS 471.640 to 471.655 shall not interfere with the duties of officers as provided in ORS 471.605 and 471.610.

471.640 Service of restraining order. The restraining order may be served by delivering a copy to any person in charge of such place or residing therein, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such place. The officer serving the order may enter such place and forthwith shall make and return to the court an inventory of the personal property and contents situated in and used in conducting or maintaining such nuisance. Any violation, of the order or mutilation or removal of the order so posted shall be a contempt of court, if the posted order contains a notice to that effect.

471.645 Temporary injunction. If a temporary injunction is granted, the court may issue further restraining orders as described in ORS 471.635; and forthwith may issue an order closing such place against its use for any purpose until the final decision, or the court may allow such place to be occupied or used during the pendency of the injunction proceedings by requiring the defendants to furnish an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or a bond with sufficient surety, to be approved by the court, in the penal sum of not less than \$2,500, payable to the state. The bond or letter of credit shall be conditioned that alcoholic liquor will not be manufactured, possessed, sold, served, bartered, or given away, or furnished, or otherwise disposed of thereon or therein, or kept thereon or therein with the intent to sell, barter, serve, or give away, or otherwise dispose of alcoholic liquor contrary to law, and that the defendants will pay all fines, costs and damages assessed against them for any violation of such conditions. The State of Oregon in an action brought by the Attorney General, the Oregon Liquor Control Commission or its administrators, or the district attorney, may take whatever steps necessary to recover the whole amount as a penalty for the use of the county wherein the premises are situated. [Amended by 1991 c.331 §69; 1997 c.631 §481]

471.650 Nature of permanent injunction. If a judgment against the defendants is granted, the court shall order that the place constituting the nuisance be closed for a period not exceeding two years, or closed for a part of said time, and until the owner, lessee, tenant or occupant thereof gives a bond or letter of credit identical to the bond or letter of credit required under ORS 471.645. If any condition of the bond or letter of credit is violated, the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated. In any such suit process to nonresident defendants may be served by publication in a newspaper of general circulation in the county having jurisdiction of the injunction proceedings. Notice shall be published once each week for two consecutive weeks or for such time as the court, by order, may prescribe. [Amended by 1991 c.331 §70; 2003 c.576 §462]

471.655 Owner may defend; evidence concerning nuisance.

- (1) The owner of any property closed or restrained, or to be closed or restrained, may appear at any time between the filing of the complaint and the trial and show cause why the court should cancel or refrain from issuing any judgment orders as against the owner. In order to obtain such relief, the owner must prove to the satisfaction of the court that the owner is the lawful owner of the property and, further, that with reasonable care and diligence the owner could not have known of the illegal use of the owner's property.
- (2) Evidence of the general reputation of the premises upon which a nuisance is alleged to exist is admissible in evidence for the purpose of proving the existence of the nuisance, and of knowledge of, and of acquiescence and participation therein, on the part of persons charged with maintaining or assisting in the maintenance of a nuisance. [Amended by 2003 c.576 §463]

471.657 Confiscation and forfeiture for violation of ORS 471.475. Upon conviction for violation of ORS 471.475, the premises upon which the violation has occurred shall be declared to be a common nuisance and subject to abatement proceedings as provided by ORS 471.605 to 471.655. Any person who knowingly suffers or permits such nuisance to exist or be kept or maintained in a private or public club or place of which the person is the owner, manager or lessor, may be a party defendant to such abatement proceedings. In any such case, upon conviction, all alcoholic liquor, whether purchased or acquired from any other source, and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, and all facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be declared to be a common nuisance and shall be subject to confiscation and forfeiture as provided for by ORS 471.610. No claim of ownership or of any right, title, or interest in or to any of the personal property enumerated in this section or ORS 471.475 shall be held valid unless claimant shows to the satisfaction of the court that claimant is in good faith the owner of the claim and had no knowledge that the personal property was used in violation of ORS 471.475.

471.660 Seizure of conveyance transporting liquor and liquor therein; notice to owner; return of conveyance; costs.

- (1) When any peace officer discovers any person in the act of transporting alcoholic liquors in violation of law, in or upon any vehicle, boat or aircraft, or conveyance of any kind, the officer may seize any alcoholic liquor found therein, take possession of the vehicle or conveyance and arrest any person in charge thereof.
- (2) The officer shall at once proceed against the person arrested, under the Liquor Control Act in any court having competent jurisdiction, and shall deliver the vehicle or conveyance to the sheriff of the county in which such seizure was made.
- (3) If the person arrested is the owner of the vehicle or conveyance seized, it shall be returned to the owner upon execution by the owner of a good and valid bond, with sufficient sureties in a sum double the value of the property, approved by the court and conditioned to return the property to the custody of the sheriff at a time to be specified by the court.

- (4) If the person arrested is not the owner of the vehicle or conveyance seized, the sheriff shall make reasonable effort to determine the name and address of the owner. If the sheriff is able to determine the name and address of the owner, the sheriff shall immediately notify the owner by registered or certified mail of the seizure and of the owner's rights and duties under this section and ORS 471.666.
- (5) A person notified under subsection (4) of this section, or any other person asserting a claim to rightful possession of the vehicle or conveyance seized, except the defendant, may move the court having ultimate trial jurisdiction over any crime charged in connection with the seizure to return the vehicle or conveyance to the movant.
- (6) The movant shall serve a copy of the motion upon the district attorney of the county in which the vehicle or conveyance is in custody. The court shall order the vehicle or conveyance returned to the movant, unless the court is satisfied by clear and convincing evidence that the movant knowingly consented to the unlawful use that resulted in the seizure. If the court does not order the return of the vehicle or conveyance, the movant shall obtain the return only as provided in subsection (3) of this section.
- (7) If the court orders the return of the vehicle or conveyance to the movant, the movant shall not be liable for any towing or storage costs incurred as a result of the seizure.
- (8) If the court does not order the return of the vehicle or conveyance under subsection (6) of this section, and the arrested person is convicted for any offense in connection with the seizure, the vehicle or conveyance shall be subject to forfeiture as provided in ORS 471.666. [Amended by 1973 c.836 §351; 1981 c.601 §2]

471.655 [Amended by 1971 c.743 §374a; 1973 c.836 §352; 1977 c.745 §40; 1993 c.741 §66; repealed by 1997 c.592 §6 (471.666 enacted in lieu of 471.665)]

471.666 Disposal of seized liquor and of vehicle or other conveyance.

- (1) The court, upon conviction of the person arrested under ORS 471.660, shall order the alcoholic liquor delivered to the Oregon Liquor Control Commission, and shall, subject to the ownership rights of innocent third parties, order a sale at public auction by the sheriff of the county of the property seized. The sheriff, after deducting the expense of keeping the property and the cost of sale, shall pay all the liens, according to their priorities, which are established by intervention or otherwise at such hearing or in other proceedings brought for that purpose, and shall pay the balance of the proceeds into the general fund of the county. No claim of ownership or of any right, title or interest in or to such vehicle that is otherwise valid shall be held invalid unless the state shows to the satisfaction of the court, by clear and convincing evidence, that the claimant had knowledge that the vehicle was used or to be used in violation of law. All liens against property sold under this section shall be transferred from the property to the proceeds of the sale.
- (2) If no person claims the vehicle or conveyance, the taking of the same and the description thereof shall be advertised in some daily newspaper published in the city or county where taken, or if no daily newspaper is published in such city or county, in a newspaper having weekly circulation in the city or county, once a week for two

weeks and by hand- bills posted in three public places near the place of seizure, and shall likewise notify by mail the legal owner, in the case of an automobile, if licensed by the State of Oregon, as shown by the name and address in the vehicle registration records of the Department of Transportation. If no claimant appears within 10 days after the last publication of the advertisement, the property shall be sold and the proceeds, after de- ducting the expenses and costs, shall be paid into the general fund of the county. [1989 c.791 §18; 1993 c.741 §67; enacted in lieu of 471.665 in 1997]

471.670 [Amended by 1995 c.301 §71; 1999 c.788 §57; repealed by 2011 c.597 §118]

471.675 Resisting arrest or interfering with enforcement.

A person may not forcibly resist lawful arrest, or by physical contact recklessly interfere with an investigation of any infringement of the Liquor Control Act or with any lawful search or seizure being made by a peace officer or a regulatory specialist if the person knows or should know that the investigation, search or seizure is being performed by a peace officer or regulatory specialist. [Amended by 1981 c.370 §1; 1997 c.249 §174; 2012 c.54 §4; 2015 c.614 §163]

471.680 Allegation and proof in prosecutions. In any prosecution for the sale of alcoholic liquor it is not necessary to prove the exact variety, or to mention the quantity of alcoholic liquor sold, except in the case where the variety or quantity is essential to establish the offense. As regards quantity it is sufficient to allege the sale of a quantity, the sale of which quantity is unlawful. The description of any offense, alleged to be a violation of the Liquor Control Act, in the words of that statute or in any words of like effect, is sufficient in law. Any exceptions, exemptions, provisions, excuse or qualification may be proved by the defendant, but need not be specified or negatived in the complaint, information or indictment. If it is so specified or negatived, no proof in relation to the matter so specified or negatived is required on the part of the plaintiff, informant or complainant.

471.685 Governor authorized to suspend license. In case of invasion, disaster, insurrection, riot, or imminent danger thereof, the Governor may, for the duration of such invasion, disaster, insurrection, riot, or imminent danger thereof, immediately suspend without notice any license in the area involved granted under the provisions of this chapter. [1963 c.91 §2; 1995 c.301 §43; 1999 c.351 §61]

471.695 Fingerprinting of license applicants and certain commission employees; criminal records check.

- (1) The Oregon Liquor Control Commission may require each applicant for a full or limited on-premises sales license to submit to fingerprinting. If the applicant is a corporation, the fingerprints of each officer, director and major stockholder of the corporation may be required by the commission. Prior to approving any change in officers, directors or major stockholders, the commission may require the finger- prints of the new officials.

- (2) The commission shall require that all employees of the commission who work in the licensing or enforcement divisions or who have access to criminal background information be fingerprinted.
- (3) Fingerprints acquired under this section may be used for the purpose of requesting state or nationwide criminal records checks under ORS 181A.195.
- (4) As used in this section, "major stockholder" means any person who owns, directly or indirectly, more than 10 percent of any class of any equity security of the corporation. [1979 c.634 §2; 1999 c.351 §37; 2003 c.166 §3; 2005 c.730 §27]

471.700 Revocation of license on gambling conviction.

In carrying out its duties under ORS 471.315, the Oregon Liquor Control Commission shall not suspend or cancel a license on grounds of any violation of ORS 167.108 to 167.164 until:

- (1) The licensee has been convicted thereof in a court of competent jurisdiction; or
- (2) An employee of the licensee has been convicted thereof in a court of competent jurisdiction and the violation occurred on the licensed premises. [1979 c.171 §2; 1995 c.301 §72]

471.703 Police notice to commission or social host when certain persons involved in motor vehicle accidents; content; commission duty.

- (1) The police shall notify the Oregon Liquor Control Commission of the name of the alleged provider of alcoholic liquor when:
 - (a) The police investigate any motor vehicle accident where someone other than the operator is injured or incurs property damage;
 - (b) The operator appears to have consumed alcoholic liquor;
 - (c) A citation is issued against the operator that is related to the consumption of alcoholic liquor or could have been issued if the operator had survived; and
 - (d) The provider of the alcoholic liquor is alleged to be a licensee or permittee of the commission.
- (2) The notice shall include the name and address of the operator involved and the name and address of the person who named the alleged provider, if the person is other than the operator.
- (3) Upon receipt of the notice described in subsection (1) of this section, the commission shall cause the licensee or permittee named as the alleged provider to be notified of receipt of the notice and of its content. A copy of the notice shall be retained in the files of the commission and shall be open to inspection by the person injured or damaged by the motor vehicle operator or a representative of the person.
- (4) The police shall notify the alleged social host when the circumstances described in subsection of this section occur and the alleged social host is named as the provider of the alcoholic liquor. The notice shall include the information described in subsection (2) of this section. [1987 c.774 §15]

ORGANIZATION, POWERS AND DUTIES OF LIQUOR COMMISSION

471.705 Oregon Liquor Control Commission; qualifications; compensation; term; confirmation.

- (1) There is created the Oregon Liquor Control Commission, consisting of seven commissioners appointed by the Governor. One commissioner must be from among the residents of each congressional district of this state. One additional commissioner must be from eastern Oregon. One additional commissioner must be from western Oregon. One commissioner must be from the food and alcoholic beverage retail industry. Not more than four commissioners may be of the same political party. The Governor shall designate one commissioner to be chairperson of the commission. The commissioners are entitled to compensation and expenses as provided in ORS 292.495.
- (2) Each commissioner at the time of appointment must be a resident of this state and must have resided in this state for at least five years next preceding appointment and qualification. Each commissioner must be an elector in this state and may not be less than 30 years of age. The term of office of a commissioner terminates if the commissioner ceases to possess the residency or industry qualification for appointment. If the term of office of a commissioner terminates under this subsection, the Governor shall appoint a qualified individual to complete the unexpired term of the commissioner.
- (3) The term of office of a commissioner is four years from the time of appointment and qualification and until a successor qualifies for appointment. The terms of the commissioners commence April 1. If a commissioner is allowed to hold office after the expiration of a term, the Governor shall appoint the successor for the remainder of the unexpired term. If a vacancy occurs in the commission, the Governor shall appoint the successor for the remainder of the unexpired term. Each commissioner is eligible for reappointment, but an individual is not eligible to serve for more than two full terms.
- (4) Appointments of commissioners by the Governor under this section are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. [Amended by 1967 c.577 §11; 1969 c.314 §50; 1973 c.792 §17; 1979 c.251 §1; 1981 c.545 §9; 2017 c.183 §95]

471.710 Removal; prohibited interests of commissioner and employee; rules.

- (1) The Governor may remove any commissioner for inefficiency, neglect of duty, or misconduct in office, giving to the commissioner a copy of the charges made and an opportunity of being publicly heard in person or by counsel, in the commissioner's own defense, upon not less than 10 days' notice. If such commissioner is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such commissioner, the findings thereon, and a complete record of the proceedings.
- (2) No person, other than the member appointed in accordance with ORS 471.705 who is designated from the food and alcoholic beverage retail industry, is eligible to hold the office of commissioner, or to be employed by the Oregon Liquor Control Commission if:

- (a) The person has any financial interest in any business licensed by the commission or in any business which manufactures alcoholic beverages sold in Oregon;
 - (b) Anyone in the person's household or immediate family has a financial interest described in paragraph (a) of this subsection;
 - (c) Anyone in the person's household or immediate family is employed by a business licensed by the commission, unless the person is not in a position to take action or make decisions which could affect the licensed business; or
 - (d) The person or anyone in the person's household or immediate family has a business connection with any business licensed by the commission, unless the person is not in a position to take action or make decisions which could affect the licensed business.
- (3) (a) A retail sales agent appointed by the commission, or a person in the household or immediate family of a retail sales agent, may not have any financial interest in or business connection with:
- (A) A person or business that is licensed as a distillery;
 - (B) A person or business that holds a full on-premises sales license; or (C) A distillery whose products are sold in Oregon.
- (b) Paragraph (a) of this subsection does not apply to a distillery retail outlet agent appointed by the commission under ORS 471.230.
- (4) Nothing in this section prohibits a person from having a financial interest resulting from investments made by the Public Employees Retirement System or through mutual funds, blind trusts or similar investments where the person does not exercise control over the nature, amount or timing of the investment.
- (5) The commission by rule may establish additional restrictions to prohibit potential conflicts of interest. The commission by rule shall define "immediate family" and "business connection" as used in this section. [Amended by 1979 c.251 §2; 1983 c.168§1; 1987 c.511 §7; 2009 c.38 §4]

471.715 Chairperson; meetings; quorum.

- (1) The member from the food and alcoholic beverage retail industry shall not serve as chairperson. The chairperson shall preside at all meetings of the Oregon Liquor Control Commission or, in the chairperson's absence, some other member may serve as chairperson.
- (2) The commission shall meet at such times and places within this state as it determines. A majority of the commissioners constitutes a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the commission. [Amended by 1979 c.251 §3; 1983 c.168 §2]

471.720 Administrator; other personnel.

The Oregon Liquor Control Commission shall appoint an administrator who shall serve at its discretion. The administrator shall be subject to policy direction by the commissioners, and shall be the secretary of the commission and custodian of commission records. The administrator shall manage the commission, administer the laws, and appoint, assign and

coordinate personnel of the commission within budget limitations and the State Personnel Relations Law. [Amended by 1967 c.630 §4; 1975 c.605 §24; 1985 c.592 §1]

471.725 Buying, leasing, contracting and borrowing powers of commission. The function, duties and powers of the Oregon Liquor Control Commission include the following:

- (1) To buy, have in its possession, bottle, blend, rectify, transport and sell, for present or future delivery, in its own name, alcoholic liquor in the manner set forth in this chapter.
- (2) To purchase, acquire, rent, lease or occupy any building, rooms, stores or land and acquire, own, lease and sell equipment and fixtures required for its operations.
- (3) To lease or sublet to others property which it acquires or owns and which is not immediately required for its operations. However, no real property shall be purchased without the consent and approval of the Governor.
- (4) To borrow money, guarantee the payment thereof and of the interest thereon, by the transfer or pledge of goods or in any other manner required or permitted by law.
- (5) To issue, sign, indorse and accept checks, promissory notes, bills of exchange and other negotiable instruments.
- (6) In the event the United States Government provides any plan or method whereby the taxes upon alcoholic liquors are collected at the source, to enter into any and all contracts and comply with all regulations, even to the extent of partially or wholly abrogating any statutory provisions which might be in conflict with federal law or regulations, to the end that the commission receives the portion thereof allocated to this state, to be distributed as provided by statute.
- (7) To secure and pay for such policies of insurance as may be necessary to adequately protect it from loss by fire, theft or other casualty. [Amended by 1995 c.301 §44]

471.730 Regulatory powers of commission.

The function, duties and powers of the Oregon Liquor Control Commission include the following:

- (1) To control the manufacture, possession, sale, purchase, transportation, importation and delivery of alcoholic liquor in accordance with the provisions of this chapter and ORS 474.105 and 474.115.
- (2) To grant, refuse, suspend or cancel licenses and permits for the sale or manufacture of alcoholic liquor, or other licenses and permits in regard thereto, and to permit, in its discretion, the transfer of a license of any person.
- (3) To collect the taxes and duties imposed by statutes relating to alcoholic liquors, and to issue, and provide for cancellation, stamps and other devices as evidence of payment of such taxes or duties.
- (4) To investigate and aid in the prosecution of every violation of statutes relating to alcoholic liquors, to seize alcoholic liquor manufactured, sold, kept, imported or transported in contravention of this chapter and ORS 474.105 and 474.115, and apply for the confiscation thereof, whenever required by statute, and cooperate in the prosecution of offenders before any court of competent jurisdiction.

- (5) To adopt such regulations as are necessary and feasible for carrying out the provisions of this chapter and ORS 474.105 and 474.115 and to amend or repeal such regulations. When such regulations are adopted they shall have the full force and effect of law.
- (6) To exercise all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of this chapter and ORS 474.105 and 474.115.
- (7) To control, regulate and prohibit any advertising by manufacturers, wholesalers or retailers of alcoholic liquor by the medium of newspapers, letters, billboards, radio or otherwise.
- (8) To sell, license, regulate and control the use of alcohol for scientific, pharmaceutical, manufacturing, mechanical, industrial and other purposes, and to provide by regulation for the sale thereof for such uses.

471.732 Policy relating to sanitation in licensed premises.

- (1) The Legislative Assembly finds and declares that the regulation of health and sanitation matters in premises licensed by the Oregon Liquor Control Commission under this chapter can best be performed by the Oregon Health Authority and the State Department of Agriculture.
- (2) It is the policy of the Legislative Assembly and the intent of ORS 471.333 and 624.010 and this section that premises licensed by the Oregon Liquor Control Commission under this chapter shall be subject to the laws governing health and sanitation matters, including any applicable licensing requirements, and to the rules adopted thereunder by the authority and the department. [1979 c.236 §2; 1995 c.301 §20; 1999 c.351 §62; 2009 c.595 §962]

471.735 Testing and seizure of wines. The Oregon Liquor Control Commission shall have the power to investigate by sample or chemical analysis, the quality of all wines manufactured, imported, sold or offered for sale within this state, and to seize, confiscate and destroy all wines sold or offered for sale within this state which do not conform in all respects to the minimum standards provided for by the laws of this state.

471.737 Vermouth sales.

- (1) As used in this section:
 - (a) "Stock keeping unit" means a product that is assigned a specific identification code, which states the type, size, brand or other inventory tracking information for the product.
 - (b) "Vermouth" means fortified wine that is flavored with botanicals.
- (2) Notwithstanding ORS 471.230, a distillery retail outlet agent appointed under ORS 471.230 or a store established under ORS 471.750 may sell vermouth at retail for off premises consumption as provided under this section without holding an off-premises sales license. Vermouth sold under this section must be in factory-sealed containers. A distillery retail outlet agent or store may not offer more than 20 stock keeping units of vermouth for sale under this section.

- (3) A distillery retail outlet agent may sell vermouth under this section at the licensed premises of the distillery or at a location described in ORS 471.230 (2) where the agent offers tastings.
- (4) Except as provided in this section, vermouth sales under this section are subject to the restrictions and requirements imposed under this chapter and Oregon Liquor Control Commission rules for retail sales of wine by an off-premises sales licensee. [2017 c.31 §2]

471.740 Exclusive right of commission to handle certain liquors. Except as provided in this chapter, the Oregon Liquor Control Commission is vested with the exclusive right to purchase, sell, have in possession for sale, import or transport alcoholic beverages. [Amended by 1953 c.120 §6; 1974 c.4 §6; 1999 c.351 §77]

471.745 Fixing prices and selling liquor. The Oregon Liquor Control Commission shall fix the prices at which alcoholic liquors containing over five per- cent alcohol by volume may be purchased from it, and has power to bottle, blend, rectify, manufacture or sell alcoholic liquors for itself, or for or to any person or commission within or without this state. [Amended by 1995 c.301 §88]

471.747 Granulated alcohol.

- (1) As used in this section, “granulated alcohol” means powders, crystals or other dry preparations designed to produce an alcoholic beverage when added to a liquid.
- (2) Granulated alcohol may not be sold at retail in this state. Granulated alcohol may be sold at wholesale only for scientific, industrial, manufacturing or other purposes identified by the Oregon Liquor Control Commission under terms and conditions the commission considers appropriate to safeguard against the misuse of granulated alcohol. [2015 c.463 §2]

471.750 Liquor stores and warehouses; operation; sales; advertising; rules.

- (1) The Oregon Liquor Control Commission shall establish such stores and warehouses in such places in the state as in its judgment are required by public convenience or necessity, for the sale of spirituous liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. The commission shall keep on hand in such stores or warehouses such quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand.
- (2) Any person qualified to purchase such liquors from the commission has the right to present to the commission, or at any of its stores, an application for any kind or brand of alcoholic liquor that the person may desire and that may be manufactured or obtainable in any place in the United States, and the commission shall obtain such liquor and sell it to the applicant. The commission may not require that an application for a kind or brand of alcoholic liquor include a commitment to purchase a minimum amount of the liquor or require that a purchase be for more than one container of a kind or brand of alcoholic liquor if the liquor:
 - (a) Except as provided in subsection (5) of this section, has a retail sales price of \$30 or more per container;

- (b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;
 - (c) Is not regularly stocked by the commission; and
 - (d) Is ordered in a 750 milliliter container size if available in that size.
- (3) The commission may not establish a store in any county or incorporated city of this state where a local prohibitory law is in effect. The commission shall adopt rules governing advertising by stores operated by the commission. The commission may appoint agents in the sale of said liquor under such agreement as the commission may negotiate with said agents or their representative.
- (4) Rules relating to advertising adopted by the commission under subsection (3) of this section shall allow signs and displays within its stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to those signs and displays shall be limited to regulation of the content, size, number per brand, type and duration of the sign or display. Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays shall be optional with the agent appointed by the commission. Signs or displays authorized by the commission may not be placed in positions within the store where the sign or display would be readily visible from outside of the store.
- (5) The commission may annually adjust the price threshold established in subsection (2)(a) of this section by a percentage equal to the percentage change in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.
- [Amended by 1977
c.321 §3; 1977 c.608 §2; 1991 c.379 §1; 1995 c.301 §89; 2001 c.785§11; amendments by 2002 s.s.1 c.11 §1 repealed by 2002 s.s.2 c.1 §3; 2002 s.s.2 c.1 §1; 2011 c.180 §2]

471.752 Agent participation in programs for state employees; preference of spouse or child of deceased agent or agent with disability.

- (1) An agent appointed under ORS 471.750 may participate in a health benefit plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the agent and may participate in the state deferred compensation plan established under ORS 243.401 to 243.507. For such purposes, agents shall be considered eligible state employees.
- (2) A person who is the surviving spouse or child of a deceased agent or the spouse or child of an agent of the Oregon Liquor Control Commission who has a disability shall be given preference in the appointment of a successor agent, if otherwise qualified, the spouse having greater preference. The experience of such applicant in the business operation of the deceased agent or the agent who has a disability shall be the primary consideration in determining the qualifications of the applicant. [1979 c.203 §3; 1983 c.624 §1; 1985 c.645 §4; 1997 c.179 §30; 1997 c.222§53; 2007 c.70 §270]

471.754 Commission to develop recycling education materials. The Oregon Liquor Control Commission shall develop recycling education materials for distribution through stores established by the commission under ORS 471.750 that encourage the patrons of the store to recycle bottles sold through the stores. [1997 c.552 §34]

471.755 [Amended by 1971 c.734 §67; repealed by 1973 c.311 §6]

471.757 Statement of financial interest in business of licensee.

- (1) At such times as the Oregon Liquor Control Commission may prescribe and upon forms furnished by the commission, any license applicant or licensee of the commission may be required to submit a sworn statement to the commission showing the name, address and the nature and extent of the financial interest of each person, individual and corporate, having a financial interest in the business operated under the license.
- (2) The commission shall review the statement and may refuse to issue a license to any license applicant, or may suspend, cancel or refuse to renew the license of any licensee, when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for cancellation or suspension of a license if such person were the license applicant or licensee. However, in cases where the financial interest is held by a corporation, only the officers and directors of the corporation, any individual or combination of individuals who own a controlling financial interest in the business and any manager of the business shall be considered persons having a financial interest within the meaning of this subsection. [1963 c.369 §1; 1995 c.301 §45; 1999 c.351 §63; 2001 c.785 §9]

471.760 Subpoena; oaths; depositions. Each member of the Oregon Liquor Control Commission, or any of its authorized agents, shall, for the purposes contemplated by this chapter and ORS474.105 and 474.115, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without this state, as provided by law, and compel the production of pertinent books, payrolls, accounts, papers, records, documents and testimony. [Amended by 1953 c.101 §2]

471.765 Procedure when person refuses to testify or produce books. If a person in attendance before the Oregon Liquor Control Commission or a commissioner refuses, without reasonable cause, to be examined or to answer a legal and pertinent question, or to produce a book or paper when ordered so to do by the commission, the commission may apply to the judge of the circuit court of any county where such person is in attendance, upon proof by affidavit of the fact, for a rule or order returnable in not less than two nor more than five days, directing such person to show cause before the judge who made the order, or any other judge of such county, why the person should not be punished for contempt. Upon the return of such order, the judge shall examine such person under oath and the person shall be given an opportunity to be heard. If the judge determines that such person has refused,

without reasonable cause or legal excuse, to be examined or to answer a legal or pertinent question, or to produce a book or paper which the person was ordered to bring or produce, the judge may forthwith punish the offender for contempt of court.

471.770 Self-incrimination as a basis for refusing to testify or produce books. No person shall be excused from testifying or from producing any books, papers or documents in any investigation or inquiry by or upon any hearing before the Oregon Liquor Control Commission or any commissioner when ordered so to do by the commission or any of its authorized agents, upon the ground that the testimony, evidence, books, papers or documents required of the person may tend to incriminate the person or subject the person to penalty or forfeiture. No person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which the person shall, under oath, have, by order of the commission, or a commissioner, or any of its authorized agents, testified to or produced documentary evidence of; but no person so testifying shall be exempt from prosecution or punishment for any perjury committed by the person in testimony. [Amended by 1953 c.101 §2]

471.775 Service of subpoenas; regulatory specialist authority and prohibitions.

- (1) The provisions of ORS 183.440 shall apply to subpoenas issued by each member of the Oregon Liquor Control Commission or any of its authorized agents.
- (2) Subject to subsection (3) of this section, regulatory specialists have authority as provided under this chapter, ORS chapter 153, ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.235, 161.239 and 161.245 and chapter 743, Oregon Laws 1971, to conduct inspections or investigations, make arrests and seizures, aid in prosecutions for offenses, issue criminal citations and citations for violations and otherwise enforce this chapter, ORS 474.005 to 474.095 and 474.115, commission rules and any other laws of this state that the commission considers related to alcoholic liquor, including but not limited to:
 - (a) Laws regarding the production, processing, manufacture, importation, transportation, possession, distribution, sale or consumption of alcoholic beverages;
 - (b) The manufacture or use of false identification; or (c) The entry of premises licensed to sell alcoholic liquor.
- (3) A regulatory specialist may not:
 - (a) Be sworn in as a federal law enforcement official and act in that capacity while performing duties under subsection (2) of this section; or
 - (b) Carry a firearm. [Amended by 1953 c.101 §2; 1971 c.734 §68; 2012 c.54 §5; 2015 c.614 §164; 2016 c.24 §20; 2017 c.21 §110; 2017 c.476 §15; 2017 c.613 §28]

471.780 [Amended by 1953 c.13 §2; 1969 c.145 §1; repealed by 2001 c.785 §12]

471.785 [Amended by 1961 c.160 §23; 1967 c.577 §3; repealed by 1973 c.794 §34]

471.790 Commissioners not liable for official acts; commission funds entitled to priority. No member of the Oregon Liquor Control Commission may be sued for doing or omitting to do

any act in the performance of duties as prescribed in the Liquor Control Act. No member of the commission personally shall be liable for any loss caused by the default or failure of the depository of funds of the commission. All funds of the commission deposited in any bank or trust company are entitled to priority of payment as public funds of the state, if the commission funds are only kept in depositories designated by the State Treasurer and under security of the same character required by law for depositories of state funds.

471.795 Purchase and use of liquor by member or employee of commission. No provision of the Liquor Control Act prevents any member or employee of the Oregon Liquor Control Commission from purchasing and keeping in possession, for the personal use of self or members of the family of the member or employee, any alcoholic liquor in the same manner as it may be purchased or kept by any other person under that statute.

471.800 Restrictions on out-of-state wine; imposition. If by the laws of another state or by the rules and regulations of any administrative body or authorized agency thereof or therein, market restrictions are imposed that prevent or tend to prevent the sale of wine manufactured in Oregon in free and unrestricted competition with like kinds of wine manufactured in such other state, the Oregon Liquor Control Commission is authorized and directed to impose similar restrictions in Oregon upon such wine manufactured in such other state and offered for sale in Oregon.

471.805 Disposition of moneys; revolving fund; agent deposits.

- (1) Except as otherwise provided in sub-section (3) of this section and ORS 471.810 (2) all money collected by the Oregon Liquor Control Commission under this chapter and ORS chapter 473 and privilege taxes shall be remitted to the State Treasurer who shall credit it to a suspense account of the commission. Whenever the commission determines that moneys have been received by it in excess of the amount legally due and payable to the commission or that it has received money to which it has no legal interest, or that any license fee or deposit is properly refundable, the commission is authorized and directed to refund such money by check drawn upon the State Treasurer and charged to the suspense account of the commission. After withholding refundable license fees and such sum, not to exceed \$250,000, as it considers necessary as a revolving fund for a working cash balance for the purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items which are payable in cash immediately upon presentation, the commission shall direct the State Treasurer to transfer the money remaining in the suspense account to the Oregon Liquor Control Commission Account in the General Fund. Moneys in the Oregon Liquor Control Commission Account are continuously appropriated to the commission to be distributed and used as required or allowed by law.
- (2) All necessary expenditures of the commission incurred in carrying out the purposes required of the commission by law, including the salaries of its employees, purchases made by the commission and such sums necessary to reimburse the \$250,000 revolving fund, shall be audited and paid from the Oregon Liquor Control Commission Account in the General Fund, upon warrants drawn by the Oregon Department of Administrative Services, pursuant to claims duly approved by the commission.

- (3) Moneys from the retail sale of distilled liquor that are being held by an agent appointed under ORS 471.750 or by a distillery retail outlet agent appointed under ORS 471.230 are not subject to ORS 295.001 to 295.108 if the agent has on deposit with the commission an amount equaling or exceeding an amount the commission, in its discretion, deems to be reasonable and sufficient and to be not less than the average daily gross receipts from retail sales of distilled liquor by the agent. The commission shall remit moneys deposited with the commission under this subsection to the State Treasurer for deposit to a separate reserve account of the commission. Moneys in the reserve account are not revenue of the commission for purposes of ORS 221.770. The commission shall return the deposit, and any interest earned on the deposit, if the appointment of the agent terminates and the agent has forwarded to the commission all moneys owed the commission from retail sales of distilled liquor by the agent. [Amended by 1955 c.26§1; 1967 c.577 §4; 1975 c.424 §2; 1979 c.367 §3; 1995 c.301 §46; 1999 c.351 §64; 2005 c.755 §45; 2017 c.533 §17]

471.810 Distribution of available moneys in Oregon Liquor Control Commission Account.

- (1) At the end of each month, the Oregon Liquor Control Commission shall certify the amount of moneys available for distribution in the Oregon Liquor Control Commission Account and, after withholding such moneys as it may deem necessary to pay its outstanding obligations, shall within 35 days of the month for which a distribution is made direct the State Treasurer to pay the amounts due, upon warrants drawn by the Oregon Department of Administrative Services, as follows:
- (a) Fifty-six percent, or the amount remaining after the distribution under subsection (4) of this section, credited to the General Fund available for general governmental purposes wherein it shall be considered as revenue during the quarter immediately preceding receipt;
 - (b) Twenty percent to the cities of the state in such shares as the population of each city bears to the population of the cities of the state, as determined by Portland State University last preceding such apportionment, under ORS 190.510 to 190.610;
 - (c) Ten percent to counties in such shares as their respective populations bear to the total population of the state, as estimated from time to time by Portland State University; and
 - (d) Fourteen percent to the cities of the state to be distributed as provided in ORS 221.770 and this section.
- (2) The commission shall direct the Oregon Department of Administrative Services to transfer 50 percent of the revenues from the taxes imposed by ORS 473.030 and 473.035 to the Mental Health Alcoholism and Drug Services Account in the General Fund to be paid monthly as provided in ORS 430.380.
- (3) If the amount of revenues received from the taxes imposed by ORS 473.030 for the preceding month was reduced as a result of credits claimed under ORS 473.047, the

commission shall compute the difference between the amounts paid or transferred as described in subsections (1)(b), (c) and (d) and of this section and the amounts that would have been paid or transferred under subsections (1)(b), (c) and (d) and (2) of this section if no credits had been claimed. The commission shall direct the Oregon Department of Administrative Services to pay or transfer amounts equal to the differences computed for subsections (1)(b), (c) and (d) and (2) of this section from the General Fund to the recipients or accounts described in subsections (1)(b), (c) and (d) and (2) of this section.

- (4) Notwithstanding subsection (1) of this section, no city or county shall receive for any fiscal year an amount less than the amount distributed to the city or county in accordance with ORS 471.350 (1965 Replacement Part), 471.810, 473.190 and 473.210 (1965 Replacement Part) during the 1966- 1967 fiscal year unless the city or county had a decline in population as shown by its census. If the population declined, the per capita distribution to the city or county shall be not less than the total per capita distribution during the 1966-1967 fiscal year. Any additional funds required to maintain the level of distribution under this subsection shall be paid from funds credited under subsection (1)(a) of this section.
- (5) Notwithstanding subsection (1) of this section, amounts to be distributed from the Oregon Liquor Control Commission Account that are attributable to a per bottle surcharge imposed by the Oregon Liquor Control Commission, shall be credited to the General Fund. [Amended by 1955 c.475 §11; 1957 c.222 §1; 1957 c.445 §1; 1961 c.78 §1; 1961 c.635 §1; 1967 c.577 §5; 1969 c.499 §1; 1975 c.424 §4; 1975 c.527 §4a; 1977 c.831 §3a; 1977 c.856 §18; 1987 c.406 §2; 1997 c.348 §15; 2001 c.971 §4; 2007c.71 §153; 2007 c.854 §4; 2013 c.768 §106j; 2015 c.840 §8]

471.815 [Repealed by 1961 c.706 §45]

471.817 Alternative transportation organization to report annually. Each nonprofit organization formed by licensees to provide alternative transportation for patrons of the licensees shall report annually to the Oregon Liquor Control Commission. The commission may acknowledge receipt of the notice and shall keep a list of such organizations that have given notice. The commission shall provide information to the Department of Revenue on request for purposes of sections 2 and 4, chapter 700, Oregon Laws 1985. [1985 c.700 §6]

471.820 [Repealed by 1961 c.706 §45]

471.825 [Repealed by 1961 c.706 §45]

471.830 [Repealed by 1961 c.706 §45]

PENALTIES

471.990 Penalties.

- (1) Except where other punishment is specifically provided for, violation of any provision of this chapter and ORS 474.105 and 474.115 is a Class A misdemeanor.
- (2) A second or subsequent violation of ORS 471.440 is a Class C felony.

- (3) Subject to ORS 153.022, violation of any regulation promulgated under ORS 471.730 (5) is a Class C violation. [Amended by 1953 c.120 §6; 1963 c.93 §6; 1987 c.320 §236; 1999 c.1051 §187; 2011 c.597 §214] Oregon Chapter 475 – Controlled Substances; Illegal Drug Cleanup; Miscellaneous Drugs; Paraphernalia; Precursors

DRUG PARAPHERNALIA

475.525 Sale of drug paraphernalia prohibited; definition of drug paraphernalia; exceptions.

- (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) Scales and balances marketed for use or designed for use in weighing or measuring controlled substances;
 - (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, marketed for use or designed for use in cutting controlled substances;
 - (g) Lighting equipment specifically designed for growing controlled substances;
 - (h) Containers and other objects marketed for use or designed for use in storing or concealing controlled substances; and
 - (i) 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) Smoking and carburetion masks;
 - (E) Roach clips, meaning objects used to hold burning material that has become too small or too short to be held in the hand;
 - (F) Miniature cocaine spoons and cocaine vials;
 - (G) Chamber pipes;
 - (H) Carburetor pipes;
 - (I) Electric pipes;
 - (J) Air-driven pipes;
 - (K) Chillums;
 - (L) Bongos; and
 - (M) Ice pipes or chillers.
- (3) For purposes of this section, “drug paraphernalia” does not include hypodermic syringes or needles.
- (4) The provisions of ORS 475.525 (Sale of drug paraphernalia prohibited) to 475.565 (Civil penalty for violation of ORS 475.525) do not apply to persons registered under the provisions of ORS 475.125 (Registration requirements) 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 475B.376 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 475B.376 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. [1989 c.1077 §1; 1995 c.440 §10; 2015 c.1 §75; 2017 c.17 §42a; 2017 c.21 §25]

475.535 Action to enforce ORS 475.525 to 475.565.

The State of Oregon, any political subdivision of the state, or any official or agency of the state or its political subdivisions may bring an action to enforce ORS 475.525 to 475.565. The court shall award costs and reasonable attorney fees to the prevailing party in any such action. [1989 c.1077 §2]

475.545 Order of forfeiture of paraphernalia; effect.

If, at the trial or upon a hearing, the trier of fact finds any item received into evidence at the trial or hearing to be drug paraphernalia, the court may order the item forfeited upon motion of the district attorney. The drug paraphernalia may then be destroyed or, if the

paraphernalia is of substantial value and is not contraband, may be sold, the proceeds to be deposited in the Common School Fund. [1989 c.1077 §3]

475.555 Seizure of drug paraphernalia.

An official of the state, its political subdivisions or any agency thereof may seize drug paraphernalia when:

- (1) The drug paraphernalia is the subject of an adverse judgment under ORS 475.525 to 475.565;
- (2) The seizure is in the course of a constitutionally valid arrest or search;
- (3) The owner or person in possession of the drug paraphernalia consents to the seizure; or
- (4) The seizure is pursuant to a lawful order of a court, including an order issued under ORCP 83 or ORS 166.725. [1989 c.1077 §5]

475.565 Civil penalty for violation of ORS 475.525.

- (1) In addition to any other penalty provided by law:
 - (a) A person who violates ORS 475.525 shall incur a civil penalty in an amount of at least \$2,000 and not more than \$10,000; and
 - (b) The court may order other equitable remedies including but not limited to injunctive relief.
- (2) Any amounts collected under this section shall be forwarded to the State Treasurer for deposit in the General Fund to the credit of the Oregon Health Authority. The moneys shall be used for the development and implementation of drug abuse prevention activities and adolescent treatment. [1989 c.1077 §4; 2003 c.14 §307; 2009 c.595 §975; 2011 c.597 §218]

475.610 [1955 c.573 §2; 1957 c.587 §9; repealed by 1959 c.411 §2 (475.615 enacted in lieu of 475.610)]

475.615 [1959 c.411 §3 (enacted in lieu of 475.610); repealed by 1977 c.745 §54]

475.620 [1955 c.573 §3; 1957 c.587 §10; repealed by 1959 c.411 §4 (475.625 enacted in lieu of 475.620)]

475.625 [1959 c.411 §5 (enacted in lieu of 475.620); 1963 c.137 §2; 1969 c.310 §2; repealed by 1971 c.743 §432]

475.630 [1955 c.573 §4; repealed by 1959 c.411 §6 (475.655 enacted in lieu of 475.630)]

475.635 [1959 c.411 §11 (enacted in lieu of 475.650); 1969 c.310 §3; repealed by 1971 c.743 §432]

475.640 [1955 c.573 §5; repealed by 1959 c.411 §8 (475.665 enacted in lieu of 475.640)]

475.645 [1959 c.411 §21 (enacted in lieu of 475.700); 1969 c.391 §15; 1971 c.743 §380; 1973 c.697 §20; 1977 c.745 §41; repealed by 1977 c.871 §29]

475.650 [1955 c.573 §6; repealed by 1959 c.411 §10 (475.635 enacted in lieu of 475.650)]

475.655 [1959 c.411 §7 (enacted in lieu of 475.630); 1963 c.137 §3; 1971 c.743 §381; repealed by 1973 c.697 §21]

475.660 [1955 c.573 §7; repealed by 1959 c.411 §12 (475.675 enacted in lieu of 475.660)]

475.665 [1959 c.411 §9 (enacted in lieu of 475.640); 1971 c.743 §382; 1973 c.697 §17; 1977 c.745 §42; repealed by 1977 c.871 §29]

475.670 [1955 c.573 §8; repealed by 1959 c.411 §14 (475.705 enacted in lieu of 475.670)]

475.675 [1959 c.411 §13 (enacted in lieu of 475.660); 1969 c.638 §2; 1973 c.697 §18; repealed by 1977 c.871 §29]

475.680 [1955 c.573 §§9,13; repealed by 1959 c.411 §16 (475.685 enacted in lieu of 475.680)]

475.685 [1959 c.411 §17 (enacted in lieu of 475.680); 1973 c.697 §15; repealed by 1977 c.871 §29]

475.690 [1955 c.573 §9; repealed by 1959 c.411 §18 (475.695 enacted in lieu of 475.690)]

475.695 [1959 c.411 §19 (enacted in lieu of 475.690); 1973 c.697 §16; 1977 c.745 §48; repealed by 1977 c.871 §29]

475.700 [1955 c.573 §10; repealed by 1959 c.411 §20 (475.645 enacted in lieu of 475.700)]

475.705 [1959 c.411 §15 (enacted in lieu of 475.670); 1969 c.638 §3; 1973 c.697 §19; 1977 c.745 §49; repealed by 1977 c.871 §29]

475.710 [1955 c.573 §11; repealed by 1959 c.411 §22]

475.715 [1969 c.442 §1; renumbered 430.560]

475.720 [1955 c.573 §12; repealed by 1959 c.411 §22]

475.725 [1969 c.442 §2; renumbered 430.565]

475.730 [1955 c.573 §13; repealed by 1959 c.411 §22]

475.732 [1973 c.697 §12; repealed by 1977 c.745 §54 and 1977 c.871 §29]

475.740 [1955 c.573 §1; repealed by 1959 c.411 §22]

475.742 [1973 c.697 §14; repealed by 1977 c.871 §29]

475.744 Providing hypodermic device to minor prohibited; exception.

(1) A person may not sell or give a hypodermic device to a minor unless the minor demonstrates a lawful need for the hypodermic device by authorization of a physician, naturopathic physician licensed under ORS chapter 685, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, parent or legal guardian or by other means acceptable to the seller or donor.

(2) As used in this section, "hypodermic device" means a hypodermic needle or syringe or medication packaged in a hypodermic syringe or any instrument adapted for the subcutaneous injection of a controlled substance as defined in ORS 475.005. [Formerly 475.805; 2014 c.45 §65; 2017 c.356 §75]

475.750 [1955 c.573 §3; repealed by 1959 c.411 §22]

PENALTIES

475.752 Prohibited acts generally; penalties; exceptions; affirmative defense for certain peyote uses; causing death by Schedule IV substance.

(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 controlled substance. Any person who violates this subsection with respect to:

- (a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.
 - (b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.
 - (c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise provided in ORS 475.904 and 475.906.
 - (d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor. (e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.
- (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to create or deliver a counterfeit substance. Any person who violates this subsection with respect to:
- (a) A counterfeit substance in Schedule I, is guilty of a Class A felony.
 - (b) A counterfeit substance in Schedule II, is guilty of a Class B felony.
 - (c) A counterfeit substance in Schedule III, is guilty of a Class C felony.
 - (d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor. (e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.
- (3) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with respect to:
- (a) A controlled substance in Schedule I, is guilty of a Class A misdemeanor, except as otherwise provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.
 - (b) A controlled substance in Schedule II, is guilty of a Class A misdemeanor, except as otherwise provided in ORS 475.824, 475.834 or 475.884 or subsection (8) of this section.
 - (c) A controlled substance in Schedule III, is guilty of a Class A misdemeanor.
 - (d) A controlled substance in Schedule IV, is guilty of a Class C misdemeanor. (e) A controlled substance in Schedule V, is guilty of a violation.
- (4) In any prosecution under this section for manufacture, possession or delivery of that plant of the genus *Lophophora* commonly known as peyote, it is an affirmative defense that the peyote is being used or is intended for use:
- (a) In connection with the good faith practice of a religious belief;
 - (b) As directly associated with a religious practice; and
 - (c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.
- (5) The affirmative defense created in subsection (4) of this section is not available to any person who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.
- (6) (a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or delivers a controlled substance in Schedule IV and who thereby causes death to another person is guilty of a Class C felony.

- (b) For purposes of this subsection, causation is established when the controlled substance plays a substantial role in the death of the other person.
- (7) Notwithstanding subsection (3)(a) of this section, unlawful possession of a controlled substance in Schedule I is a Class B felony if:
- (a) The person possesses a usable quantity of the controlled substance and:
 - (A) At the time of the possession, the person has a prior felony conviction;
 - (B) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or (C) The possession is a commercial drug offense under ORS 475.900 (1)(b); or (b) The person possesses:
 - (A) Forty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide; or
 - (B) Twelve grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin.
- (8) Notwithstanding subsection (3)(b) of this section, unlawful possession of a controlled substance in Schedule II is a Class C felony if the person possesses a usable quantity of the controlled substance and:
- (a) At the time of the possession, the person has a prior felony conviction;
 - (b) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or
 - (c) The possession is a commercial drug offense under ORS 475.900 (1)(b). [Formerly 475.840; 2013 c.591 §3; 2015 c.1 §76; 2015 c.614 §124; 2016 c.24 §59; 2017 c.21 §26; 2017 c.706 §9]

475.754 Affirmative defense to unlawfully possessing pseudoephedrine.

It is an affirmative defense to a charge of violating ORS 475.752 by unlawfully possessing pseudoephedrine that the person:

- (1) Obtained the pseudoephedrine lawfully;
- (2) Possessed no more than six grams of pseudoephedrine, the salts, isomers or salts of isomers of pseudoephedrine or a combination of any of these substances; and
- (3) Possessed the pseudoephedrine under circumstances that are consistent with typical medicinal or household use, as indicated by factors that include but are not limited to storage location, purchase date, possession of the products in a variety of strengths, brands, types or purposes and expiration date. [Formerly 475.843]

Note: 475.754 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

475.805 [1983 c.738 §1; renumbered 475.744 in 2011]

475.806 Unlawful manufacture of hydrocodone.

- (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.

- (2) Unlawful manufacture of hydrocodone is a Class C felony. [2011 c.524 §11]

475.808 Unlawful manufacture of hydrocodone within 1,000 feet of school.

- (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. [2011 c.524 §12]

475.810 Unlawful delivery of hydrocodone.

- (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.
- (2) Unlawful delivery of hydrocodone is a Class C felony.
- (3) Notwithstanding subsection (2) of this section, unlawful delivery of hydrocodone is a Class B felony if the delivery is to a person under 18 years of age. [2011 c.524 §13]

475.812 Unlawful delivery of hydrocodone within 1,000 feet of school.

- (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. [2011 c.524 §14]

475.814 Unlawful possession of hydrocodone.

- (1) It is unlawful for any person knowingly or intentionally to possess hydrocodone unless the hydrocodone was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.
- (2) Unlawful possession of hydrocodone is a Class A misdemeanor. [2011 c.524 §15]

475.816 Unlawful manufacture of methadone.

- (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 methadone.
- (2) Unlawful manufacture of methadone is a Class B felony. [2011 c.524 §16]

475.818 Unlawful manufacture of methadone within 1,000 feet of school.

- (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 methadone 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 methadone within 1,000 feet of a school is a Class A felony.

[2011 c.524 §17]

475.820 Unlawful delivery of methadone.

- (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 methadone.
- (2) Unlawful delivery of methadone is a Class B felony.
- (3) Notwithstanding subsection (2) of this section, unlawful delivery of methadone is a Class A felony if the delivery is to a person under 18 years of age. [2011 c.524 §18]

475.822 Unlawful delivery of methadone within 1,000 feet of school.

- (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 methadone 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 methadone within 1,000 feet of a school is a Class A felony. [2011 c.524 §19]

475.824 Unlawful possession of methadone.

- (1) It is unlawful for any person knowingly or intentionally to possess methadone unless the methadone was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.
- (2) (a) Unlawful possession of methadone is a Class A misdemeanor.
(b) Notwithstanding paragraph (a) of this sub-section, unlawful possession of methadone is a Class C felony if:
 - (A) The person possesses a usable quantity of methadone and:
 - (i) At the time of the possession, the person has a prior felony conviction;
 - (ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or
 - (iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or
 - (B) The person possesses 40 or more user units of a mixture or substance containing a detectable amount of methadone. [2011 c.524 §20; 2017 c.706 §10]

475.826 Unlawful manufacture of oxycodone.

- (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 oxycodone.
- (2) Unlawful manufacture of oxycodone is a Class B felony. [2011 c.524 §6]

475.828 Unlawful manufacture of oxycodone within 1,000 feet of school.

- (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 oxycodone 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 oxycodone within 1,000 feet of a school is a Class A felony. [2011 c.524 §7]

475.830 Unlawful delivery of oxycodone.

- (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 oxycodone.
- (2) Unlawful delivery of oxycodone is a Class B felony.
- (3) Notwithstanding subsection (2) of this section, unlawful delivery of oxycodone is a Class A felony if the delivery is to a person under 18 years of age. [2011 c.524 §8]

475.832 Unlawful delivery of oxycodone within 1,000 feet of school.

- (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 oxycodone 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 oxycodone within 1,000 feet of a school is a Class A felony. [2011 c.524 §9]

475.834 Unlawful possession of oxycodone.

- (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless the oxycodone was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.
- (2) (a) Unlawful possession of oxycodone is a Class A misdemeanor.
(b) Notwithstanding paragraph (a) of this sub- section, unlawful possession of oxycodone is a Class C felony if:
 - (A) The person possesses a usable quantity of oxycodone and:
 - (i) At the time of the possession, the person has a prior felony conviction;
 - (ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or
 - (iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or
 - (B) The person possesses 40 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of oxycodone. [2011 c.52 §10; 2017 c.706 §11]

475.840 [Formerly 475.992; 2009 c.898 §1 renumbered 475.752 in 2011]

475.843 [2005 c.706 §13a; renumbered 475.754 in 2011]

475.846 Unlawful manufacture of heroin.

- (1) It is unlawful for any person to manufacture heroin.
- (2) Unlawful manufacture of heroin is a Class A felony. [2005 c.708 §24]

475.848 Unlawful manufacture of heroin within 1,000 feet of school.

- (1) It is unlawful for any person to manufacture heroin 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 heroin within 1,000 feet of a school is a Class A felony. [2005 c.708 §25]

475.850 Unlawful delivery of heroin.

- (1) It is unlawful for any person to deliver heroin.
- (2) Unlawful delivery of heroin is a Class A felony. [2005 c.708 §26]

475.852 Unlawful delivery of heroin within 1,000 feet of school.

- (1) It is unlawful for any person to deliver heroin 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 heroin within 1,000 feet of a school is a Class A felony. [2005 c.708 §27]

475.854 Unlawful possession of heroin.

- (1) It is unlawful for any person knowingly or intentionally to possess heroin.
- (2) (a) Unlawful possession of heroin is a Class A misdemeanor.
(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class B felony if:
 - (A) The person possesses a usable quantity of heroin and:
 - (i) At the time of the possession, the person has a prior felony conviction;
 - (ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or
 - (iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or
 - (B) The person possesses one gram or more of a mixture or substance containing a detectable amount of heroin. [2005 c.708 §28; 2017 c.706 §12]

475.856 [2005 c.708 §29; 2013 c.591 §1; 2015 c.1 §77; 2015 c.614 §121; 2016 c.24 §42; repealed by 2017 c.21 §126]

475.858 [2005 c.708 §30; 2015 c.614 §119; 2016 c.24 §43; repealed by 2017 c.21 §126]

475.860 [2005 c.708 §31; 2009 c.610 §1; 2011 c.597 §88; 2015 c.1 §78; 2015 c.614 §122; 2016 c.24 §44; repealed by 2017 c.21 §126]

475.862 [2005 c.708 §32; 2015 c.614 §120; 2016 c.24 §45; repealed by 2017 c.21 §126]

475.864 [2005 c.708 §33; 2011 c.597 §89; 2013 c.591 §2; 2015 c.1 §79; 2015 c.614 §123; 2016 c.24 §46; repealed by 2017 c.21 §126]

475.866 Unlawful manufacture of 3,4-methylenedioxymethamphetamine.

- (1) It is unlawful for any person to manufacture 3,4-methylenedioxymethamphetamine.
- (2) Unlawful manufacture of 3,4-methylenedioxymethamphetamine is a Class A felony. [2005 c.708 §34]

475.868 Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.

- (1) It is unlawful for any person to manufacture 3,4 methylenedioxymethamphetamine 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 3,4-methylenedioxymethamphetamine within 1,000 feet of a school is a Class A felony. [2005 c.708 §35]

475.870 Unlawful delivery of 3,4-methylenedioxymethamphetamine.

- (1) It is unlawful for any person to deliver 3,4-methylenedioxymethamphetamine.
- (2) Unlawful delivery of 3,4-methylenedioxy- methamphetamine is a Class A felony. [2005 c.708 §36]

475.872 Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.

- (1) It is unlawful for any person to deliver 3,4-methylenedioxymethamphetamine 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 3,4-methylenedioxy- methamphetamine within 1,000 feet of a school is a Class A felony. [2005 c.708 §37]

475.874 Unlawful possession of 3,4-methylenedioxymethamphetamine.

- (1) It is unlawful for any person knowingly or intentionally to possess 3,4methylenedioxymethamphetamine.
- (2) (a) Unlawful possession of 3,4-methylenedioxymethamphetamine is a Class A misdemeanor.
(b) Notwithstanding paragraph (a) of this sub- section, unlawful possession of 3,4methylenedioxy- methamphetamine is a Class B felony if:
 - (A) The person possesses a usable quantity of 3,4methylenedioxymethamphetamine and:
 - (i) At the time of the possession, the person has a prior felony conviction;

- (ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or
 - (iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or
- (B) The person possesses one gram or more or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:
 - (i) 3,4-methylenedioxyamphetamine;
 - (ii) 3,4-methylenedioxymethamphetamine; or
 - (iii) 3,4-methylenedioxy-N-ethylamphetamine. [2005 c.708 §38; 2017 c.706 §13]

475.876 Unlawful manufacture of cocaine.

- (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 cocaine.
- (2) Unlawful manufacture of cocaine is a Class B felony. [2005 c.708 §19]

475.878 Unlawful manufacture of cocaine within 1,000 feet of school.

- (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 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 manufacture of cocaine within 1,000 feet of a school is a Class A felony. [2005 c.708 §20]

475.880 Unlawful delivery of cocaine.

- (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.
- (2) Unlawful delivery of cocaine is a Class B felony.
- (3) Notwithstanding subsection (2) of this section, unlawful delivery of cocaine is a Class A felony if the delivery is to a person under 18 years of age. [2005 c.708 §21]

475.882 Unlawful delivery of cocaine within 1,000 feet of school.

- (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. [2005 c.708 §22]

475.884 Unlawful possession of cocaine.

- (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.
- (2) (a) Unlawful possession of cocaine is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this sub-section, unlawful possession of cocaine is a Class C felony if:

- (A) The person possesses a usable quantity of cocaine and:
 - (i) At the time of the possession, the person has a prior felony conviction;
 - (ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or
 - (iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or
- (B) The person possesses two grams or more of a mixture or substance containing a detectable amount of cocaine. [2005 c.708 §23; 2017 c.706 §14]

475.886 Unlawful manufacture of methamphetamine.

- (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.
- (2) Unlawful manufacture of methamphetamine is a Class B felony.
- (3) The minimum fine for unlawful manufacture of methamphetamine is \$1,000. [2005 c.708 §14; 2011 c.597 §11]

475.888 Unlawful manufacture of methamphetamine within 1,000 feet of school.

- (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. [2005 c.708 §15; 2011 c.597 §12]

475.890 Unlawful delivery of methamphetamine.

- (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.
- (2) Unlawful delivery of methamphetamine is a Class B felony.
- (3) Notwithstanding subsection (2) of this section, unlawful delivery of methamphetamine is a Class A felony if the delivery is to a person under 18 years of age.
- (4) The minimum fine for unlawful delivery of methamphetamine is \$500. [2005 c.708 §16; 2011 c.597 §13]

475.892 Unlawful delivery of methamphetamine within 1,000 feet of school.

- (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. [2005 c.708 §17; 2011 c.597 §14]

475.894 Unlawful possession of methamphetamine.

- (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.
- (2) (a) Unlawful possession of methamphetamine is a Class A misdemeanor. (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is a Class C felony if:
 - (A) The person possesses a usable quantity of methamphetamine and:
 - (i) At the time of the possession, the person has a prior felony conviction;
 - (ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or
 - (iii) The possession is a commercial drug offense under ORS 475.900(1)(b); or
 - (B) The person possesses two grams or more of a mixture or substance containing a detectable amount of methamphetamine. [2005 c.708 §18; 2017 c.706 §15]

475.898 Immunity from drug-related offenses for emergency medical assistance.

- (1) A person who contacts emergency medical services or a law enforcement agency to obtain medical assistance for another person who needs medical assistance due to a drug-related overdose is immune from arrest or prosecution for an offense listed in subsection (3) of this section if the evidence of the offense was obtained because the person contacted emergency medical services or a law enforcement agency.
- (2) A person who is in need of medical assistance due to a drug-related overdose is immune from arrest or prosecution for an offense listed in subsection (3) of this section if the evidence of the offense was obtained because any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.
- (3) The immunity conferred under subsections (1) and (2) of this section applies to arrest and prosecution for:
 - (a) Frequenting a place where controlled substances are used as described in ORS 167.222;

- (b) Possession of a controlled substance as described in ORS 475.752;
 - (c) Unlawful possession of hydrocodone as described in ORS 475.814;
 - (d) Unlawful possession of methadone as described in ORS 475.824;
 - (e) Unlawful possession of oxycodone as described in ORS 475.834;
 - (f) Unlawful possession of heroin as described in ORS 475.854;
 - (g) Unlawful possession of 3,4-methylenedioxymethamphetamine as described in ORS 475.874;
 - (h) Unlawful possession of cocaine as described in ORS 475.884;
 - (i) Unlawful possession of methamphetamine as described in ORS 475.894;
 - (j) Unlawfully possessing a prescription drug as described in ORS 689.527 (6); and
 - (k) Unlawful possession of drug paraphernalia with intent to sell or deliver as described in ORS 475.525.
- (4) (a) A person may not be arrested for violating, or found to be in violation of, the conditions of the person's pretrial release, probation, post-prison supervision or parole if the violation involves:
- (A) The possession or use of a controlled substance or frequenting a place where controlled substances are used; and
 - (B) The evidence of the violation was obtained because the person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to a drug related overdose.
- (b) A person may not be arrested for violating, or found to be in violation of, the conditions of the person's pretrial release, probation, post-prison supervision or parole if the violation involves:
- (A) The possession or use of a controlled substance or frequenting a place where controlled substances are used; and
 - (B) The evidence of the violation was obtained because the person was in need of medical assistance due to a drug-related overdose and any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.
- (5) (a) A person may not be arrested on an outstanding warrant for any of the offenses listed in subsection (3) of this section, or on an outstanding warrant for a violation, other than commission of a new crime, of the conditions of the person's probation, post-prison supervision or parole for conduct that would constitute an offense listed in subsection (3) of this section, if the location of the person was obtained because the person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to a drug-related overdose.
- (b) A person may not be arrested on an outstanding warrant for any of the offenses listed in subsection (3) of this section, or on an outstanding warrant for a violation, other than commission of a new crime, of the conditions of the person's probation, post-prison supervision or parole for conduct that would constitute an offense listed in subsection of this section, if the location of the person was obtained because the person was in need of medical assistance due to a drug-related overdose and any

- person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.
- (c) This subsection does not apply to outstanding federal warrants or outstanding warrants issued from other states.
- (6) The immunity from arrest and prosecution described in this section is not grounds for the suppression of evidence relating to a criminal offense other than the offenses listed in subsection (3) of this section.
- (7) As used in this section:
- (a) "Controlled substance" has the meaning given that term in ORS 475.005.
 - (b) "Drug-related overdose" means an acute condition, including mania, hysteria, extreme physical illness, coma or death, resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, that a person would reasonably believe to be a condition that requires medical attention. [2015 c.274 §1; 2016 c.24 §60; 2017 c.21 §27]

Note: 475.898 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

475.900 Crime category classification; proof of commercial drug offense.

- (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:
- (a) The violation constitutes delivery or manufacture of a controlled substance and involves substantial quantities of a controlled substance. For purposes of this paragraph, the following amounts constitute substantial quantities of the following controlled substances:
 - (A) Five grams or more of a mixture or sub- stance containing a detectable amount of heroin;
 - (B) Ten grams or more of a mixture or sub- stance containing a detectable amount of cocaine;
 - (C) Ten grams or more of a mixture or sub- stance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;
 - (D) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
 - (E) Sixty grams or more of a mixture or sub- stance containing a detectable amount of psilocybin or psilocin; or
 - (F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:
 - (i) 3,4-methylenedioxyamphetamine; (ii) 3,4-methylenedioxymethamphetamine; or
 - (iii) 3,4-methylenedioxy-N-ethylamphetamine.
 - (b) The violation constitutes possession, delivery or manufacture of a controlled substance and the possession, delivery or manufacture is a commercial drug

offense. A possession, delivery or manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at least three of the following factors:

- (A) The delivery was of heroin, cocaine, meth- amphetamine, lysergic acid diethylamide, psilocybin or psilocin and was for consideration;
- (B) The offender was in possession of \$300 or more in cash;
- (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a controlled substance offense;
- (D) The offender was in possession of materials being used for the packaging of controlled substances such as scales, wrapping or foil, other than the material being used to contain the substance that is the subject of the offense;
- (E) The offender was in possession of drug transaction records or customer lists;
- (F) The offender was in possession of stolen property;
- (G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled substance offense;
- (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment;
- (I) The offender was using public lands for the manufacture of controlled substances;
- (J) The offender had constructed fortifications or had taken security measures with the potential of injuring persons; or
- (K) The offender was in possession of con- trolled substances in an amount greater than:
 - (i) Three grams or more of a mixture or sub- stance containing a detectable amount of heroin;
 - (ii) Eight grams or more of a mixture or sub- stance containing a detectable amount of cocaine;
 - (iii) Eight grams or more of a mixture or sub- stance containing a detectable amount of methamphetamine;
 - (iv) Twenty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
 - (v) Ten grams or more of a mixture or sub- stance containing a detectable amount of psilocybin or psilocin; or
 - (vi) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:
 - a. 3,4-methylenedioxyamphetamine;
 - b. 3,4-methylenedioxymethamphetamine; or

- c. 3,4-methylenedioxy-N-ethylamphetamine.
 - (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.
 - (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists of:
 - (A) A chemical reaction involving one or more precursor substances for the purpose of manufacturing methamphetamine; or
 - (B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of manufacturing methamphetamine.
 - (e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is not described in ORS 475.907.
- (2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:
- (a) The violation constitutes delivery of heroin, cocaine, methamphetamine or 3,4-methylene dioxyamphetamine, 3,4-methylenedioxy-methamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.
 - (b) The violation constitutes possession of:
 - (A) Five grams or more of a mixture or sub-stance containing a detectable amount of heroin;
 - (B) Ten grams or more of a mixture or sub-stance containing a detectable amount of cocaine;
 - (C) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine;
 - (D) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
 - (E) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or
 - (F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:
 - (i) 3,4-methylenedioxyamphetamine; (ii) 3,4-methylenedioxy-methamphetamine; or
 - (iii) 3,4-methylenedioxy-N-ethylamphetamine.
- (3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection (1) or (2) of this section shall be classified as:
- (a) Crime category 4 of the sentencing guide- lines grid of the Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a controlled substance; or
 - (b) Crime category 1 of the sentencing guide- lines grid of the Oregon Criminal Justice Commission if the violation involves possession of a controlled substance.
- (4) In order to prove a commercial drug offense, the state shall plead in the accusatory instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

- (5) As used in this section, “mixture or substance” means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense. [Formerly 475.996; 2007 c.494 §1; 2013 c.649 §1; 2015 c.614 §126; 2017 c.21 §28]

475.902 Directives to Oregon Criminal Justice Commission.

- (1) The Oregon Criminal Justice Commission shall classify causing another person to ingest a controlled substance as a person felony and crime category 8 of the sentencing guidelines grid of the commission.
- (2) The Oregon Criminal Justice Commission shall classify causing another person to ingest a controlled substance with the intent of committing or facilitating a crime of violence against the other person as a person felony and crime category 9 of the sentencing guidelines grid of the commission.
- (3) The Oregon Criminal Justice Commission shall amend its rules and appendices to prohibit persons convicted of manufacturing substantial quantities of methamphetamine, its salts, isomers or salts of its isomers from being eligible for an optional probation sentence.
- (4) As used in subsection (3) of this section, “substantial quantities” means that quantity of methamphetamine, its salts, isomers or salts of its isomers described in ORS 475.900 (1)(a). [Formerly 475.998; 2009 c.11 §70]

Note: 475.902 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

475.904 Unlawful manufacture or delivery of controlled substance within 1,000 feet of school; exceptions.

- (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 475B.015, that is engaged in lawful activities; or
 - (b) A person acting within the scope of and in compliance with ORS 475B.301.[Formerly 475.999; 2015 c.614 §127]

475.906 Penalties for unlawful delivery to minors. Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver a controlled substance to a person under 18 years of age. Any person who violates this section with respect to:

- (1) A controlled substance in Schedule I or II, is guilty of a Class A felony.
- (2) A controlled substance in Schedule III, is guilty of a Class B felony.

- (3) A controlled substance in Schedule IV, is guilty of a Class A misdemeanor.
- (4) A controlled substance in Schedule V, is guilty of a Class B misdemeanor. [Formerly 475.995]

475.907 Sentencing for unlawful delivery of cocaine, methamphetamine, heroin or ecstasy to minors.

- (1) When a person is convicted of the unlawful delivery of cocaine, methamphetamine, heroin or ecstasy to a person under 18 years of age, the court shall sentence the person to a term of incarceration ranging from 34 months to 72 months, depending on the person's criminal history.
- (2) The sentence described in subsection of this section does not apply to a person who is less than three years older than the person under 18 years of age to whom the controlled substance was delivered, unless the person has a previous conviction for delivery of cocaine, methamphetamine, heroin or ecstasy to a person under 18 years of age. [2008 c.14 §3]

Note: 475.907, 475.924 and 475.925 were enacted into law but were not added to or made a part of ORS chapter 475 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

475.908 Causing another person to ingest a controlled substance.

- (1) A person commits the crime of causing another person to ingest a controlled substance if the person knowingly or intentionally causes the other person to ingest, other than by administering or dispensing, a controlled substance or a controlled substance analog without consent of the other person. A person who violates this subsection is guilty of a Class B felony.
- (2) Notwithstanding subsection (1) of this section, causing another person to ingest a controlled substance is a Class A felony if the person, with the intent of committing or facilitating a crime of violence against the other person, knowingly or intentionally causes the other person to ingest a controlled substance or a controlled substance analog without consent of the other person.
- (3) For the purposes of this section:
 - (a) (A) Except as provided in subparagraph of this paragraph, "controlled substance analog" means a substance that:
 - (i) Has a chemical structure that is substantially similar to the chemical structure of a controlled substance in Schedule I or II.
 - (ii) Has a stimulant, depressant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
 - (B) "Controlled substance analog" does not include:
 - (i) A controlled substance;
 - (ii) Any substance that has an approved drug application;

- (iii) Any substance exempted under 21 U.S.C. 355 if the ingestion is within the scope of investigation authorized under 21 U.S.C. 355; or
- (iv) Distilled spirits, wine or malt beverages.

(b) "Crime of violence" means:

- (A) Rape in the first degree, as defined in ORS 163.375;
- (B) Sodomy in the first degree, as defined in ORS 163.405;
- (C) Unlawful sexual penetration in the first degree, as defined in ORS 163.411;
- (D) Sexual abuse in the first degree, as defined in ORS 163.427;
- (E) Kidnapping in the first degree, as defined in ORS 163.235;
- (F) Kidnapping in the second degree, as defined in ORS 163.225;
- (G) Assault in the first degree, as defined in ORS 163.185; or
- (H) Assault in the second degree, as defined in ORS 163.175.

(c) "Ingest" means to consume or otherwise deliver a controlled substance into the body of a person. [Formerly 475.984; 2017 c.21 §29]

475.910 Application of controlled substance to the body of another person; prohibition.

Except as authorized by ORS 475.005 to 475.285 or 475.752 to 475.980, it is unlawful for any person to intentionally apply a controlled substance to the body of another person by injection, inhalation, ingestion or any other means if the other person is under 18 years of age. A person who violates this section with respect to:

- (1) A controlled substance in Schedule I or II, is guilty of a Class A felony classified as crime category 9 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.
- (2) A controlled substance in Schedule III, is guilty of a Class B felony classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.
- (3) A controlled substance in Schedule IV, is guilty of a Class C felony.
- (4) A controlled substance in Schedule V, is guilty of a Class A misdemeanor. [Formerly 475.986; 2017 c.21 §30]

475.912 Unlawful delivery of imitation controlled substance.

- (1) A person commits the crime of unlawful delivery of an imitation controlled substance if the person knowingly:
 - (a) Delivers, other than by administering or dispensing, a substance that is not a controlled substance upon the express or implied representation that the substance is a controlled substance; or
 - (b) Delivers a substance that is not a controlled substance upon the express or implied representation that the substance is of such nature or appearance that the recipient of the delivery will be able to distribute the substance as a controlled substance.

- (2) As used in this section, “deliver” or “delivery” means the actual or constructive transfer, or offer or agreement to transfer, from one person to another of a substance, whether or not there is an agency relationship.
- (3) Unlawful delivery of an imitation controlled substance is a Class A misdemeanor.
[Formerly 475.991]

475.914 Prohibited acts for registrants; penalties.

- (1) It is unlawful for any person:
 - (a) Who is subject to ORS 475.095 and 475.125 to 475.185 to deliver or dispense a controlled substance in violation of ORS 475.185;
 - (b) Who is a registrant, to manufacture a controlled substance not authorized by this registration, or to deliver or dispense a controlled substance not authorized by the registration to another registrant or other authorized person;
 - (c) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under ORS 475.005 to 475.285 and 475.752 to 475.980;
 - (d) To refuse an entry into any premises for any inspection authorized by ORS 475.005 to 475.285 and 475.752 to 475.980; or
 - (e) To keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft or other structure or place, while knowingly permitting persons to use controlled substances in such places in violation of ORS 475.005 to 475.285 and 475.752 to 475.980, or which is used for keeping or selling them in violation of ORS 475.005 to 475.285 and 475.752 to 475.980.
- (2) Any person who violates this section with respect to:
 - (a) A controlled substance in Schedule I, is guilty of a Class C felony.
 - (b) A controlled substance in Schedule II, is guilty of a Class A misdemeanor.
 - (c) A controlled substance in Schedule III, is guilty of a Class B misdemeanor.
 - (d) A controlled substance in Schedule IV or V, is guilty of a Class C misdemeanor.
[Formerly 475.993; 2011 c.524 §25]

475.916 Prohibited acts involving records and fraud; penalties.

- (1) It is unlawful for any person knowingly or intentionally:
 - (a) To deliver as a registrant a controlled substance classified in Schedule I or II, except pursuant to an order form as required by ORS 475.175;
 - (b) To use in the course of manufacture or delivery of a controlled substance a registration number which is fictitious, revoked, suspended or issued to another person;
 - (c) To acquire or to attempt to acquire or obtain or attempt to obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;
 - (d) To furnish false or fraudulent material information in, or omit any material information from, any application, report, record or other document required to be kept or filed under ORS 475.005 to 475.285 and 475.752 to 475.980; or

- (e) To make, deliver or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.
- (2) Any person who violates this section is guilty of a Class A misdemeanor. [Formerly 475.994]

475.918 Falsifying drug test results.

- (1) A person commits the crime of falsifying drug test results if the person intentionally uses, or possesses with intent to use, any substance or device designed to falsify the results of a drug test of the person.
- (2) Falsifying drug test results is a Class B misdemeanor.
- (3) As used in this section and ORS 475.920, “drug test” means a lawfully administered test designed to detect the presence of a controlled substance. [Formerly 475.981]

475.920 Providing drug test falsification equipment.

- (1) A person commits the crime of providing drug test falsification equipment if the person intentionally delivers, possesses with intent to deliver or manufactures with intent to deliver a substance or device designed to enable a person to falsify the results of a drug test.
- (2) Providing drug test falsification equipment is a Class A misdemeanor. [Formerly 475.982]

475.924 Definitions for ORS 164.061, 475.907, 475.924 and 475.925. As used in ORS 164.061, 475.907, 475.924 and 475.925:

- (1) “Controlled substance” means:
 - (a) Cocaine;
 - (b) Methamphetamine;
 - (c) Heroin; or
 - (d) Ecstasy.
- (2) “Ecstasy” means:
 - (a) 3,4-methylenedioxymethamphetamine;
 - (b) 3,4-methylenedioxyamphetamine; or
 - (c) 3,4-methylenedioxy-N-ethylamphetamine.
- (3) “Mixture or substance” means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense. [2008 c.14 §5]

Note: See note under 475.907.

475.925 Sentences for certain controlled substance offenses.

When a person is convicted of the unlawful delivery or manufacture of a controlled substance, the court shall sentence the person to a term of incarceration ranging from:

- (1) 58 months to 130 months, depending on the person's criminal history, if the delivery or manufacture involves:
 - (a) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;
 - (b) 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;
 - (c) 100 grams or more of a mixture or substance containing a detectable amount of heroin; or
 - (d) 100 grams or more or 500 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of ecstasy.
- (2) 34 months to 72 months, depending on the person's criminal history, if the delivery or manufacture involves:
 - (a) 100 grams or more of a mixture or substance containing a detectable amount of cocaine;
 - (b) 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;
 - (c) 50 grams or more of a mixture or substance containing a detectable amount of heroin; or
 - (d) 50 grams or more or 250 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of ecstasy. [2008 c.14 §2]

Note: See note under 475.907.

475.930 Imposition of sentence under ORS 164.061, 475.907, 475.924 and 475.925.

- (1) When a court sentences a person under ORS 164.061, 475.907, 475.924 and 475.925:
 - (a) The court shall use the criminal history scale of the sentencing guidelines grid of the Oregon Criminal Justice Commission to determine the sentence to impose.

The sentence described in:

 - (A) ORS 475.925 (1) shall be determined utilizing crime category 10 of the sentencing guidelines grid.
 - (B) ORS 475.907 (1) and 475.925 (2) shall be determined utilizing crime category 9 of the sentencing guidelines grid.
 - (C) ORS 164.061 shall be determined utilizing crime category 8 of the sentencing guidelines grid.
 - (b) (A) Notwithstanding ORS 161.605, the court shall impose the sentence described in ORS 164.061, 475.907, 475.924 and 475.925 and may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the commission.

(B) The court may impose a sentence other than the sentence described in ORS 164.061, 475.907, 475.924 and 475.925 if the court imposes a longer term of incarceration that is otherwise required or authorized by law.

- (2) A person sentenced under ORS 164.061, 475.907, 475.924 and 475.925 may not receive a reduction in the term of incarceration for appropriate institutional behavior that exceeds 20 percent of the sentence imposed. [2008 c.14 §11]

Note: 475.930 was enacted into law but was not added to or made a part of ORS chapter 475 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

475.933 [2009 c.660 §10; repealed by 2013 c.649 §9]

475.934 Sentencing of persons with previous conviction for controlled substance offense.

- (1) When a court sentences a person convicted of a crime listed in subsection (2) of this section, the court may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission if the person has a previous conviction for any of the crimes listed in subsection (2) of this section.
- (2) The crimes to which subsection (1) of this section applies are:
- (a) Manufacture or delivery of a controlled substance under ORS 475.752 (1);
 - (b) Creation or delivery of a counterfeit substance under ORS 475.752 (2);
 - (c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850 or 475.852;
 - (d) Manufacture or delivery of 3,4-methylenedioxymethamphetamine under ORS 475.866, 475.868, 475.870 or 475.872;
 - (e) Manufacture or delivery of cocaine under ORS 475.876, 475.878, 475.880 or 475.882; (f) Manufacture or delivery of methamphetamine under ORS 475.886, 475.888, 475.890 or 475.892;
 - (g) Manufacture or delivery of a controlled substance within 1,000 feet of a school under ORS 475.904;
 - (h) Delivery of a controlled substance to a person under 18 years of age under ORS 475.906; and
 - (i) Possession of a precursor substance with intent to manufacture a controlled substance under ORS 475.967.
- (3) (a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of sentence. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode. (b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.
- (4) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.
- (5) As used in this section, “previous conviction” includes convictions entered in any other state or federal court for comparable offenses. [2013 c.649§11; 2017 c.21 §31]

Note: 475.934 becomes operative July 1, 2023, and applies to crimes committed on or after July 1, 2023. See section 12, chapter 649, Oregon Laws 2013.

Note: 475.934 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

475.935 Presumptive sentences for certain methamphetamine offenses.

- (1) Except as provided in ORS 475.900, 475.907 or 475.925, when the court sentences a person convicted of delivery of methamphetamine under ORS 475.890 or 475.892, the presumptive sentence is 19 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has two or more previous convictions for any combination of the following crimes:
 - (a) Delivery or manufacture of methamphetamine under ORS 475.752, 475.886 or 475.890;
 - (b) Delivery or manufacture of methamphetamine within 1,000 feet of a school under ORS 475.888, 475.892 or 475.904; or
 - (c) Possession of a precursor substance with intent to manufacture a controlled substance under ORS 475.967.
- (2) The court may impose a sentence other than the sentence provided by subsection (1) of this section if the court imposes:
 - (a) A longer term of incarceration that is otherwise required or authorized by law; or
 - (b) An upward durational departure sentence that is authorized by law or the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless otherwise authorized by law or rule of the Oregon Criminal Justice Commission, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) of this section.
- (3) As used in this section, “previous conviction” means:
 - (a) Convictions occurring before, on or after August 16, 2005; and
 - (b) Convictions entered in any other state or federal court for comparable offenses.
- (4) (a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.
(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.
- (5) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079. [Formerly 137.721]

Note: 475.935 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PRECURSOR SUBSTANCES

475.940 Precursor substances described. As used in ORS 475.752 to 475.980:

- (1) "Iodine matrix" means iodine at a concentration greater than two percent by weight in a matrix or solution.
- (2) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.
- (3) "Precursor substance" means:
 - (a) Phenyl-2-propanone.
 - (b) Methylamine.
 - (c) D-lysergic acid.
 - (d) Ergotamine.
 - (e) Diethyl Malonate.
 - (f) Malonic acid.
 - (g) Ethyl Malonate.
 - (h) Barbituric acid.
 - (i) Piperidine.
 - (j) N-acetylanthranilic acid.
 - (k) Ethylamine.
 - (l) Pyrrolidine.
 - (m) Phenylacetic acid.
 - (n) Anthranilic acid.
 - (o) Morpholine.
 - (p) Ephedrine.
 - (q) Pseudoephedrine.
 - (r) Norpseudoephedrine.
 - (s) Phenylpropanolamine.
 - (t) Benzyl cyanide.
 - (u) Ergonovine.
 - (v) 3,4-Methylenedioxyphenyl-2-propanone.
 - (w) Propionic anhydride.
 - (x) Insosafrole (Isosafrole).
 - (y) Safrole.
 - (z) Piperonal.
 - (aa) N-methylephedrine.
 - (bb) N-ethylephedrine.
 - (cc) N-methylpseudoephedrine.
 - (dd) N-ethylpseudoephedrine.
 - (ee) Hydriotic acid.

- (ff) Gamma butyrolactone (GBL), including butyrolactone, 1,2-butanolide, 2oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone and tetramethylene glycol, but not including gamma aminobutyric acid (GABA).
- (gg) 1,4-butanediol.
- (hh) Any salt, isomer or salt of an isomer of the chemicals listed in paragraphs (a) to (gg) of this subsection.
- (ii) Iodine in its elemental form.
- (jj) Iodine matrix.
- (kk) Red phosphorus, white phosphorus, yellow phosphorus or hypophosphorus acid and its salts.
- (ll) Anhydrous ammonia.
- (mm) Lithium metal.
- (nn) Sodium metal.
- (oo) Any substance established as a precursor substance by rule under authority granted in ORS 475.945. [1987 c.657 §§3,3a; 2001 c.615 §1; 2003 c.448 §1; 2005 c.706 §17]

475.945 Authority and duties of Department of State Police; rules.

This section grants authority to and establishes duties of the Department of State Police in relation to the requirements concerning precursor substances under ORS 475.752 to 475.980. The following are applicable as described:

- (1) The department may adopt rules in accordance with ORS chapter 183 that add substances to those specifically enumerated in ORS 475.940 (3) if the substance is a precursor to a controlled substance. Similarly, the department may delete such substances as it has added by administrative rule.
- (2) Notwithstanding the time period established for reporting under ORS 475.950, the department may authorize the submission of such reports on a monthly basis with respect to repeated, regular transactions between the furnisher and recipient involving the same substance if the department determines that all of the following exist:
 - (a) A pattern of regular supply of such substance exists as between the manufacturer, wholesaler, retailer or other person who sells, transfers or otherwise furnishes such substance and the recipient of the substance.
 - (b) The recipient has established a record of use of the substance for lawful purposes.
- (3) The department shall establish a common form for reporting or recording for purposes of ORS 475.950, 475.975 (3), 475.976 (3) and 475.978(1). The department may include as information required to be reported or recorded on the form any information the department determines will be convenient or useful to police agencies in finding potentially illegal uses of precursor substances. The reporting or recording form shall require at least the following information:
 - (a) The name of the substance.
 - (b) The quantity of the substance sold, transferred or furnished.
 - (c) The date the substance was sold, transferred or furnished.

- (d) The name and address of the person buying or receiving the substance accompanied by a verification of the person's identification by means the department requires by rule.
 - (e) The name and address of the person selling, transferring or furnishing the substance accompanied by a verification of the person's identification by means the department requires by rule.
 - (f) The name of any agent acting on behalf of any party to the transaction accompanied by a verification of the person's identification by means the department requires by rule.
- (4) The department shall establish a common reporting form for purposes of ORS 475.955. The department may include as information required to be reported on the form any information the department determines will be convenient or useful to police agencies in finding potentially illegal uses of precursor substances. The reporting form shall require at least the following information:
- (a) The name of the person making the report.
 - (b) The name of the common carrier or person who transports the substance and date of shipment of the substance.
 - (c) The date and circumstances of discovering the loss, theft or discrepancy.
- (5) The department shall furnish a copy of the report to the local law enforcement agency in whose jurisdiction the transaction occurred. [1987 c.657 §6; 2001 c.615 §12]

475.947 Warning notice for precursor substance violation.

- (1) In lieu of making an arrest or issuing a citation, a law enforcement officer may deliver a warning notice to a person or business that the officer has probable cause to believe has sold or otherwise delivered a precursor substance in violation of ORS 475.752 to 475.980 whenever the officer reasonably believes that the public interest will be adequately served under the circumstances by issuance of a written warning notice. The notice must be in substantially the following form:

WARNING NOTICE

Please Read this Notice Carefully!!!

TO: _____(name of person or business) DATE: _____(date of notice)

FROM: _____(name of law enforcement agency)

RE: _____(name of precursor substance or product)

The undersigned law enforcement officer has probable cause to believe that on ____ (date of violation), you sold or otherwise delivered a quantity of the precursor substance identified above in violation of the laws of the State of Oregon.

This warning notice has been given to you in lieu of formal action concerning that violation.

Please be aware that any further violation may result in formal action being taken against you, which may include, but is not limited to, the filing of an action in circuit court seeking a court order prohibiting you from selling or delivering any quantity of one or more precursor substances to any person.

Law Enforcement Officer

- (2) A warning notice issued by a law enforcement officer under subsection (1) of this section shall be personally delivered to the person named in the notice, or personally delivered to the person in charge of the business named in the notice. [2003 c.448 §6]

475.949 Injunctive relief for precursor substance violation.

- (1) Whenever it appears that any person has repeatedly sold or delivered one or more precursor substances in violation of the provisions of ORS 475.752 to 475.980, the county attorney or city attorney may cause a civil suit to be instituted in the circuit court for injunctive relief to restrain the person from selling or delivering one or more of the precursor substances.
- (2) Upon a proper showing, the court may grant a permanent or temporary injunction prohibiting the defendant or defendants from any further sale or delivery of any amount of one or more precursor substances.
- (3) The court may decline to enter an injunctive order against a defendant who:
 - (a) Demonstrates no knowledge of the existence of the violation, or demonstrates reasonable efforts to stop the violation from occurring;
 - (b) Has not been guilty of any contempt of court in the proceedings; and
 - (c) The court finds will make best efforts to immediately end any violation that may exist and prevent any further violation from occurring. [2003 c.448 §7]

475.950 Failure to report precursor substances transaction.

- (1) A person commits the offense of failure to report a precursor substances transaction if the person does any of the following:
 - (a) Sells, transfers or otherwise furnishes any precursor substance described in ORS 475.940 (3)(a) to (hh) and (oo) and does not, at least three days before delivery of the substance, submit to the Department of State Police a report that meets the reporting requirements established by rule under ORS 475.945.
 - (b) Receives any precursor substance described in ORS 475.940 (3)(a) to (hh) and (oo) and does not, within 10 days after receipt of the substance, submit to the Department of State Police a report that meets the reporting requirements established by rule under ORS 475.945.
- (2) This section does not apply to any of the following:
 - (a) Any pharmacist or other authorized person who sells or furnishes a precursor substance upon the prescription of a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist or veterinarian.
 - (b) Any practitioner, as defined in ORS 475.005, who administers or furnishes a precursor substance to patients upon prescription.
 - (c) Any person licensed by the State Board of Pharmacy who sells, transfers or otherwise furnishes a precursor substance to a licensed pharmacy, physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505

to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist or veterinarian for distribution to patients upon prescription.

- (d) Any person who is authorized by rule under ORS 475.945 to report in an alternate manner if the person complies with the alternate reporting requirements.
 - (e) Any patient of a practitioner, as defined in ORS 475.005, who obtains a precursor substance from a licensed pharmacist, physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist or veterinarian pursuant to a prescription.
 - (f) Any person who sells or transfers ephedrine, pseudoephedrine or phenylpropanolamine in compliance with ORS 475.973.
 - (g) Any practitioner, as defined in ORS 475.005, who dispenses a precursor substance to a person with whom the practitioner has a professional relationship.
 - (h) Any person who obtains a precursor substance from a practitioner, as defined in ORS 475.005, with whom the person has a professional relationship.
 - (i) Any person who sells or transfers an isomer of a precursor substance, unless it is an optical isomer.
- (3) Penalties related to providing false information on a report required under this section are provided under ORS 475.965.
- (4) The Department of State Police and any law enforcement agency may inspect and remove copies of the sales records of any retail or wholesale distributor of methyl sulfonyl methane or a precursor substance during the normal business hours of the retail or wholesale distributor or may require the retail or wholesale distributor to provide copies of the records.
- (5) Failure to report a precursor substances transaction is a Class A misdemeanor. [1987 c.657 §2; 2001 c.615 §2; 2003 c.448 §2; 2005 c.706 §18; 2007 c.253 §1; 2013 c.129 §33; 2014 c.45 §66; 2017 c.356§76]

475.955 Failure to report missing precursor substances.

- (1) A person commits the offense of failure to report missing precursor substances if the person:
 - (a) Is a licensee or other person regulated by the provisions of ORS 475.005 to 475.285 and 475.752 to 475.980;
 - (b) Discovers any theft or loss of any precursor substance or any difference between the quantity received and the quantity shipped; and
 - (c) Within three days after discovery of the theft or loss or actual knowledge of the discrepancy, does not report the theft, loss or discrepancy to the Department of State Police in the manner provided by rule adopted under ORS 475.945.
- (2) Penalties for providing false information on any report required under this section are provided under ORS 465.965.
- (3) The offense described in this section, failure to report missing precursor substances, is a

Class A misdemeanor. [1987 c.657 §4; 1995 c.440 §34; 2001 c.615 §13]

475.960 Illegally selling drug equipment.

- (1) A person commits the offense of illegally selling drug equipment if the person sells any substance, article, apparatus or device with knowledge that the substance, article, apparatus or device will be used to manufacture, compound, convert, process or prepare a controlled substance for unlawful sale or distribution.
- (2) The offense described in this section, illegally selling drug equipment, is a Class A misdemeanor. [1987 c.657 §5]

475.962 Distribution of equipment, solvent, reagent or precursor substance with intent to facilitate manufacture of controlled substance.

- (1) A person commits the crime of distribution of equipment, a solvent, a reagent or a precursor substance with intent to facilitate the manufacture of a controlled substance if the person sells or otherwise transfers equipment, a solvent, a reagent or a precursor substance with knowledge that the equipment, solvent, reagent or precursor substance is intended to be used in the manufacture of a controlled substance in violation of ORS 475.752.
- (2) Distribution of equipment, a solvent, a reagent or a precursor substance with intent to facilitate the manufacture of a controlled substance is a Class B felony. [2005 c.706 §8]

Note: 475.962 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

475.965 Providing false information on precursor substances report or record.

- (1) A person commits the offense of providing false information on a precursor substances report or record if the person knowingly provides false information in any report or record required under ORS 475.950, 475.955, 475.975, 475.976 or 475.978.
- (2) The offense described in this section, providing false information on a precursor substances report or record, is a Class A misdemeanor. [1987 c.657 §7; 2001 c.615 §14]

475.967 Possession of precursor substance with intent to manufacture controlled substance.

- (1) A person commits the crime of possession of a precursor substance with intent to manufacture a controlled substance if the person possesses one or more precursor substances with the intent to manufacture a controlled substance in violation of ORS 475.752 (1), 475.806, 475.808, 475.816, 475.818, 475.826, 475.828, 475.846, 475.848, 475.866, 475.868, 475.876, 475.878, 475.886 or 475.888.
- (2) Possession of a precursor substance with intent to manufacture a controlled substance is a Class B felony. [2001 c.615 §10; 2005 c.708 §58; 2011 c.524 §22]

475.969 Unlawful possession of phosphorus.

- (1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of phosphorus if the person knowingly possesses any amount of phosphorus.
- (2) Subsection (1) of this section does not apply to:
 - (a) A person who is conducting a licensed business that involves phosphorus in the manufacture of:
 - (A) The striking surface used for lighting matches;
 - (B) Flame retardant polymers; or
 - (C) Fireworks if the person possesses a federal license to manufacture explosives;
 - (b) A person who possesses phosphorus in conjunction with experiments conducted in a chemistry or chemistry related laboratory maintained by a:
 - (A) Regularly established public or private secondary school; or
 - (B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education;
 - (c) A retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons, who possesses phosphorus in the regular course of lawful business activities;
 - (d) The possession of phosphorus as a component of a commercially produced product including, but not limited to, matchbooks, fireworks and emergency flares; or
 - (e) A person who possesses phosphorus in a chemical compound in the regular course of a lawful agricultural activity.
- (3) Unlawful possession of phosphorus is a Class A misdemeanor. [2001 c.615 §4]

475.971 Unlawful possession of anhydrous ammonia.

- (1) A person commits the crime of unlawful possession of anhydrous ammonia if the person knowingly possesses anhydrous ammonia in a container that is not approved by the United States Department of Transportation to hold anhydrous ammonia nor constructed to meet state and federal health and safety standards to hold anhydrous ammonia.
- (2) Unlawful possession of anhydrous ammonia is a Class A misdemeanor.
- (3) This section does not apply to a person who possesses anhydrous ammonia as part of a clean-up, as defined in ORS 466.605, of anhydrous ammonia by the Department of Environmental Quality under ORS 466.610. [2001 c.615 §5]

475.973 Rulemaking authority regarding products containing ephedrine, pseudoephedrine and phenylpropanolamine; records.

- (1) (a) The State Board of Pharmacy may not adopt rules that exempt a product containing ephedrine or pseudoephedrine from classification as a controlled substance. Except as otherwise provided in this paragraph, the State Board of Pharmacy shall adopt rules to classify ephedrine, pseudoephedrine and

phenylpropanolamine as Schedule III controlled substances. The Schedule III classification may be modified by the State Board of Pharmacy if the State Board of Pharmacy finds that restrictions on products containing ephedrine, pseudoephedrine or phenylpropanolamine under a Schedule III designation do not significantly reduce the number of methamphetamine laboratories within the state.

(b) Records of transactions involving products containing ephedrine, pseudoephedrine or phenylpropanolamine are subject to inspection by the State Board of Pharmacy and law enforcement agencies. A person required to make or maintain records of transactions involving products containing ephedrine, pseudoephedrine or phenylpropanolamine shall forward the records to the Department of State Police if directed to do so by the department. Failure to forward records as required by this paragraph is a Class A misdemeanor.

- (2) This section does not apply to products that the State Board of Pharmacy, upon application of a manufacturer, exempts by rule because the product is formulated to effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors. Upon notification from the Department of State Police that the department has probable cause to believe that a product exempted under this subsection does not effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors, the State Board of Pharmacy may issue an emergency rule revoking the exemption for the product pending a full hearing. [2001 c.615 §6; 2003 c.448 §3; 2005 c.706 §11; 2011 c.524 §26]

475.975 Unlawful possession of iodine in its elemental form; recording transfers; unlawful distribution of iodine in its elemental form.

- (1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of iodine in its elemental form if the person knowingly possesses iodine in its elemental form.
- (2) Subsection (1) of this section does not apply to:
- (a) A physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons who possesses iodine in its elemental form in the regular course of lawful business activities;
 - (b) A person who possesses iodine in its elemental form in conjunction with experiments conducted in a chemistry or chemistry related laboratory maintained by a:
 - (A) Regularly established public or private secondary school;
 - (B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education; or
 - (C) Manufacturing, government agency or research facility in the course of lawful business activities;
 - (c) A licensed veterinarian;

- (d) A person working in a general hospital who possesses iodine in its elemental form in the regular course of employment at the hospital; or
 - (e) A person who possesses iodine in its elemental form as a prescription drug pursuant to a prescription issued by a licensed veterinarian, physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390.
- (3) Except as otherwise provided in subsection (4) of this section, a person who sells or otherwise transfers iodine in its elemental form to another person shall make a record of each sale or transfer. The record must be made on a form provided by the Department of State Police, completed pursuant to instructions provided by the department and retained by the person for at least three years or sent to the department if directed to do so by the department. Failure to make and retain or send a record required under this subsection is a Class A misdemeanor.
- (4) A licensed veterinarian is not required to make a record of a sale or transfer of iodine in its elemental form under subsection (3) of this section if the veterinarian makes a record of the sale or transfer under other applicable laws or rules regarding the prescribing and dispensing of regulated or controlled substances by veterinarians.
- (5) A person commits the crime of unlawful distribution of iodine in its elemental form if the person knowingly sells or otherwise transfers iodine in its elemental form to a person not listed in subsection (2) of this section.
- (6) Unlawful possession of iodine in its elemental form is a Class A misdemeanor.
- (7) Unlawful distribution of iodine in its elemental form is a Class A misdemeanor. [2001 c.615 §7; 2005 c.706 §14; 2014 c.45 §67; 2017 c.356 §77]

475.976 Unlawful possession of iodine matrix; recording transfers; unlawful distribution of iodine matrix.

- (1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of an iodine matrix if the person knowingly possesses an iodine matrix.
- (2) Subsection (1) of this section does not apply to:
- (a) A person who possesses an iodine matrix as a prescription drug, pursuant to a prescription issued by a licensed veterinarian, physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390;
 - (b) A person who is actively engaged in the practice of animal husbandry of livestock as defined in ORS 609.125;
 - (c) A person who possesses an iodine matrix in conjunction with experiments conducted in a chemistry or chemistry related laboratory maintained by a:
 - (A) Regularly established public or private secondary school;
 - (B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education; or

- (c) Manufacturing, government agency or research facility in the course of lawful business activities;
 - (d) A veterinarian, physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons who possesses an iodine matrix in the regular course of lawful business activities; or
 - (e) A person working in a general hospital who possesses an iodine matrix in the regular course of employment at the hospital.
- (3) Except as otherwise provided in sub- section (4) of this section, a person who sells or otherwise transfers an iodine matrix to another person shall make a record of each sale or transfer. The record must be made on a form provided by the Department of State Police, completed pursuant to instructions provided by the department and retained by the person for at least three years or sent to the department if directed to do so by the department. Failure to make and retain or send a record required under this subsection is a Class A misdemeanor.
- (4) A licensed veterinarian is not required to make a record of a sale or transfer of an iodine matrix under subsection (3) of this section if the veterinarian makes a record of the sale or transfer under other applicable laws or rules regarding the prescribing and dispensing of regulated or controlled substances by veterinarians.
- (5) A person commits the crime of unlawful distribution of an iodine matrix if the person knowingly sells or otherwise transfers an iodine matrix to a person not listed in subsection (2) of this section.
- (6) Unlawful possession of an iodine matrix is a Class A misdemeanor.
- (7) Unlawful distribution of an iodine matrix is a Class A misdemeanor. [2001 c.615 §8; 2005 c.706 §15; 2014 c.45 §68; 2017 c.356 §78]

475.977 Possessing or disposing of meth- amphetamine manufacturing waste.

- (1) As used in this section:
- (a) "Dispose of" means to discharge, deposit, inject, spill, leak or place methamphetamine manufacturing waste into or onto land or water.
 - (b) "Methamphetamine manufacturing waste" means chemical waste or debris, used in or resulting from the manufacture of methamphetamine or the grinding, soaking or otherwise breaking down of a precursor substance for the manufacture of methamphetamine.
- (2) A person commits the crime of possessing or disposing of methamphetamine manufacturing waste if the person:
- (a) Knowingly possesses methamphetamine manufacturing waste; or
 - (b) Knowingly disposes of methamphetamine manufacturing waste.
- (3) Subsection (2) of this section does not apply to the possession or disposal of methamphetamine manufacturing waste if:

- (a) The person was storing, treating or disposing of the waste pursuant to state or federal laws regulating the cleanup or disposal of waste products from unlawful methamphetamine manufacturing;
 - (b) The person has notified a law enforcement agency of the existence of the waste; or
 - (c) The person possesses or disposes of waste that had previously been disposed of by another person on the person's property in violation of subsection (2) of this section.
- (4) Possessing or disposing of methamphetamine manufacturing waste is a Class C felony. [2005 c.706 §6]

475.978 Methyl sulfonyl methane; transfers; records; rules.

- (1) A person who sells or otherwise transfers more than the amount permitted by administrative rule adopted by the Department of State Police of methyl sulfonyl methane to a person other than a physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, pharmacist, veterinarian, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons shall make a record of each such sale or transfer. The record must be made on a form provided by the department, completed pursuant to instructions provided by the department and retained by the person for at least three years. Failure to make and retain a record required under this subsection is a Class A violation.
- (2) The department shall adopt a rule establishing the minimum amount of methyl sulfonyl methane the sale or transfer of which requires a report under subsection (1) of this section. In establishing the minimum amount, the department shall determine an amount that is reasonably designed not to infringe upon legitimate uses of methyl sulfonyl methane but that discourages the use of methyl sulfonyl methane in the illicit production and distribution of methamphetamine.
- (3) This section applies to the sale or transfer of bulk methyl sulfonyl methane in its powder form only, and does not apply to the sale or transfer of products containing methyl sulfonyl methane in other forms including, but not limited to, liquids, tablets, capsules not containing methyl sulfonyl methane in pure powder form, ointments, creams, cosmetics, foods and beverages. [2001 c.615 §9; 2003 c.448 §4; 2005 c.706 §16; 2014 c.45 §69; 2017 c.356 §79]

Note: Section 11, chapter 615, Oregon Laws 2001, provides:

Sec. 11. Until the Department of State Police adopts a rule under section 9 of this 2001 Act [475.978], a person who sells or otherwise transfers two pounds or more of methyl sulfonyl methane shall make the reports required by section 9 of this 2001 Act. [2001 c.615 §11]

475.979 Unlawful possession of lithium metal or sodium metal.

- (1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of lithium metal or sodium metal if the person knowingly possesses lithium metal or sodium metal.
- (2) Subsection (1) of this section does not apply to:
 - (a) A person who is conducting a lawful manufacturing operation that involves the use of lithium metal or sodium metal;
 - (b) A person who possesses lithium metal or sodium metal in conjunction with experiments conducted in a chemistry or chemistry related laboratory maintained by a:
 - (A) Regularly established public or private secondary school; or
 - (B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education;
 - (c) A retail distributor, wholesaler, manufacturer, warehouseman or common carrier, or an agent of any of these persons, who possesses lithium metal or sodium metal in the regular course of lawful business activities; or
 - (d) A person who possesses lithium metal or sodium metal as a component of a commercially produced product including, but not limited to, rechargeable batteries.
- (3) Unlawful possession of lithium metal or sodium metal is a Class A misdemeanor. [2005 c.706 §9]

Note: 475.979 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

975.890 Affirmative defense to ORS 475.969, 475.971, 475.975 (1) and 475.976 (1).

It is an affirmative defense to a charge of violating ORS 475.969, 475.971, 475.975 (1) or 475.976 (1) that the person possessed the precursor substance for a lawful purpose. [2001 c.615 §17]

975.981 [2001 c.700 §2; renumbered 475.918 in 2005] **475.982** [2001 c.700 §3; renumbered 475.920 in 2005]

475.984 [2001 c.510 §2; renumbered 475.908 in 2005]

475.986 [2001 c.857 §2; renumbered 475.910 in 2005]

475.990 [1957 c.587 §11; 1969 c.310 §4; repealed by 1977 c.745 §45]

475.991 [1981 c.859 §2; renumbered 475.912 in 2005]

475.992 [1977 c.745 §15; 1979 c.777 §55; 1989 c.1075 §3; 1991 c.329 §1; 1991 c.460 §§4,20; 1991 c.818 §5; 1995 c.440 §35; 2005 c.708 §39; renumbered 475.840 in 2005]

475.993 [1977 c.745 §16; 1995 c.440 §36; renumbered 475.914 in 2005]

475.994 [1977 c.745 §17; 1993 c.571 §25; 1995 c.440 §37; renumbered 475.916 in 2005]

475.995 [1977 c.745 §20; 1979 c.777 §56; 1995 c.440 §38; 2005 c.708 §40; renumbered 475.906 in 2005]

475.996 [1991 c.690 §§1,2,3,3a; 2001 c.804§2; 2001 c.870 §9; 2003 c.695 §3; 2005 c.708 §7; renumbered 475.900 in 2005] [1977 c.636 §9; repealed by 1993c.571 §30]

475.998 [Subsections (1) and (2) of 2001 Edition enacted as 2001 c.510 §3; subsections (3) and

(4) of 2001 Edition enacted as 2001 c.804 §1; renumbered 475.902 in 2005]

475.999 [1989 c.806 §2; 1991 c.574 §1; 1993 c.78 §1; 1995 c.343 §49; 1995 c.440 §39; 2005 c.22 §349; 2005 c.708 §41; renumbered 475.904 in 2005]

Local Sanctions

CORVALLIS MUNICIPAL CODE

5.03.040.010.02 - Providing alcoholic liquor to certain persons prohibited.

- (1) No one other than the person's parent or guardian shall sell, give, or otherwise make available any alcoholic liquor to a person under the age of 21 years.
- (2) A person who sells, gives, or otherwise makes available alcoholic liquor to a person with the knowledge that the person will violate this subsection.
- (3) A violation of this Section is a Class A Misdemeanor. Upon conviction, the Court shall impose at least a mandatory minimum sentence:
 - (a) Upon a first conviction, a fine of \$500;
 - (b) Upon a second conviction, a fine of \$1,000; and,
 - (c) Upon a third conviction, a fine of \$1,500 and not less than 30 days of imprisonment.
- (4) The mandatory minimum penalty provisions of subsection 3) of this Section shall not apply to persons licensed or appointed by or through the Commission.
- (5) Except as provided in subsection 2) this Section is intended to be a strict liability crime and the court shall not require proof of a mental state.

5.03.040.010.03 - Purchase or possession of alcoholic liquor by minors.

- (1) The City of Corvallis adopts ORS 471.430 in its entirety.
- (2) A person under 21 years of age may not attempt to purchase, purchase or acquire alcoholic beverages. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of age may not have personal possession of alcoholic beverages.
- (3) For purposes of this Section, personal possession of alcoholic beverages includes the acceptance or consumption of a container of such beverages, or any portion thereof or a drink of such beverages. However, this Section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.
- (4) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.
- (5) Except as provided in paragraph (a) of this subsection, a person who violates subsection (2) or (4) of this Section commits a Class B violation.

- (a) A person commits a Class A violation if the person violates subsection (2) of this Section by reason of personal possession of alcoholic beverages while the person is operating a motor vehicle, as defined in ORS 801.360.
- (6) In addition to and not in lieu of any other penalty established by law, a person under 21 years of age who violates subsection (2) of this Section through misrepresentation of age may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this Section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.
- (7) If a person cited under this Section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).
- (8) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this Section to undergo assessment and treatment as provided in ORS 471.432. The court shall order a person to undergo assessment and treatment as provided in ORS 471.432 if the person has previously been found to have violated this Section.
- (9) The prohibitions of this Section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.
- (10) The prohibitions of this Section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

5.03.040.010.10 - Hosting party for minors.

- (1) No person shall permit, allow or host a juvenile party at his or her place of residence or premises under the person's control while alcoholic liquor is consumed or possessed by any minor.
- (2) It shall be an affirmative defense to this Section that the alcoholic liquor is provided by the minor's parent or guardian in accordance with this Chapter.
- (3) This Section is intended to be a strict liability crime and the court shall not require proof of a mental state.
- (4) A violation of this Section is a Class A misdemeanor. Upon conviction, the court shall impose at least a mandatory minimum sentence:
- (a) Upon a first conviction, a fine of \$500;

- (b) Upon a second conviction, a fine of \$1,000; and
- (c) Upon a third conviction, a fine of \$1,500 and not less than 30 days of imprisonment.

5.03.040.020.02 - Unlawful possession of marijuana.

- (1) Except for licensees and licensee representatives acting in accordance with ORS 475B.010 to 475B.395, and any rule adopted under ORS 475B.010 to 475B.395, it is unlawful for any person 21 years of age or older knowingly or intentionally to possess:
 - (a) An amount of marijuana plants in excess of the amount of marijuana plants allowed under ORS 475B.245 (1).
 - (b) More than one ounce of usable marijuana in a public place.
 - (c) More than eight ounces of usable marijuana in a household.
 - (d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates in a household or public place.
 - (e) More than 72 ounces of cannabinoid products in liquid form in a household or public place.
 - (f) More than one ounce of cannabinoid extracts in a household or public place.
- (2) A violation of subsection 1) a) to f) of this section is a Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection 1) a) to f) of this section.
- (3) It shall be an affirmative defense, consistent with ORS 475B.480, if a person is acting within the scope of and in compliance with the Oregon Medical Marijuana Act.

5.03.040.020.03 -- Attempted purchase of marijuana by person under 21; entry of licensed premises by person under 21.

- (1) A person under 21 years of age may not possess, attempt to purchase, or purchase cannabinoid items.
 - (a) For purposes of this subsection, purchasing a cannabinoid item includes accepting a cannabinoid item, and possessing a cannabinoid item includes consuming a cannabinoid item, provided that the consumption of the cannabinoid item occurred no more than 24 hours before the determination that the person consumed the cannabinoid item.
- (2) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premise that is posted or otherwise identified as being prohibited to the use of minors.
- (3) (a) Except as provided in paragraph b) of this subsection, a person who violates subsection 1) or 2) of this section commits a Class B violation.
 - (b) A person commits a Class A violation if the person violates subsection 1) of this section by reason of possessing a cannabinoid item while the person is operating a motor vehicle as defined in ORS 801.360.
- (4) In addition to and not in lieu of any other penalty established by law:
 - (a) The court may require a person who violates subsection 1) of this section through misrepresentation of age to perform community service; and

- (b) The court shall order that, when a person violates subsection 1) of this section, the person's driving privileges and right to apply for driving privileges be suspended pursuant to ORS 809.260 and 809.280. The court notification made to the Department of Transportation under this paragraph may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.
- (5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty established by law, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).
- (6) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment. The court shall order a person to undergo assessment and treatment if the person has previously been found to have violated this section.
- (7) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of cannabinoid items to persons who are under 21 years of age.
- (8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of cannabinoid items to persons who are under 21 years of age.
- (9) (a) A person under 21 years of age is not in violation of, and is immune from prosecution under this section if:
- (A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was need of medical assistance because that person consumed a cannabinoid item and the evidence of the violation was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or
 - (B) The person was in need of medical assistance because the person consumed a cannabinoid item and the evidence of the violation was obtained as a result of the person's having sought or obtained the medical assistance.
- (b) Paragraph a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section
- (10) When a person is ordered to undergo assessment and treatment as provided in this section, the court shall require the person to do all of the following:
- (a) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 475B.260.
 - (b) Complete an examination by an agency or organization designated by the court to determine whether the person has a problem condition involving marijuana as described in ORS 813.040. The designated agencies or organizations must meet

minimum standards established under ORS 430.357 to perform the diagnostic assessment and treatment of problem marijuana use and must be certified by the Director of the Oregon Health Authority.

- (c) Complete a treatment program, paid at the expense of the person convicted, as follows:
 - (A) If the examination required under this section shows that the person has a problem condition involving marijuana, a program for rehabilitation for problem marijuana use approved by the director.
 - (B) If the examination required by this section shows that the person does not have a problem condition involving marijuana, a marijuana information program approved by the director.
- (11) It shall be an affirmative defense to this section if a person is acting within the scope of and in compliance with the Oregon Medical Marijuana Act.

5.03.040.020.04 - Use of marijuana in public place prohibited.

- (1) It is unlawful for any person to engage in the use of marijuana items in a public place.
- (2) A violation of subsection (1) of this Section is a Class B violation.

5.03.040.020.06 - Providing marijuana to certain persons prohibited.

- (1) No one shall sell, give, or otherwise make available any marijuana or marijuana products to a person under the age of 21 years.
- (2) A person who sells, gives, or otherwise makes available marijuana or marijuana products to a person with the knowledge that the person will violate this subsection.
- (3) A violation of this Section is a Class A Misdemeanor. Upon conviction, the Court shall impose at least a mandatory minimum sentence:
 - (a) Upon a first conviction, a fine of \$500;
 - (b) Upon a second conviction, a fine of \$1,000; and,
 - (c) Upon a third conviction, a fine of \$1,500 and not less than 30 days of imprisonment.
- (4) The mandatory minimum penalty provisions of subsection 3) of this Section shall not apply to persons licensed or appointed by or through the Commission.
- (5) It shall be an affirmative defense to this Section if a person is acting within the scope of and in compliance with the Oregon Medical Marijuana Act as a designated primary caregiver as defined under ORS 475.312.
- (6) Except as provided in subsection 2) this Section is intended to be a strict liability crime and the court shall not require proof of a mental state.

5.03.040.020.07 - Hosting party for minors.

- (1) No person shall permit, allow or host a juvenile party at his or her place of residence or premises under the person's control while marijuana or marijuana products are consumed or possessed by any minor.
- (2) This Section is intended to be a strict liability crime and the court shall not require proof of a mental state.

- (3) A violation of this Section is a Class A misdemeanor. Upon conviction, the court shall impose at least a mandatory minimum sentence:
- (a) Upon a first conviction, a fine of \$500;
 - (b) Upon a second conviction, a fine of \$1,000; and
 - (c) Upon a third conviction, a fine of \$1,500 and not less than 30 days of imprisonment.

BEND MUNICIPAL CODE

See: <https://www.codepublishing.com/OR/Bend/>

5.15.005 Drinking on Unlicensed Premises.

- A. No person shall drink or be in possession of an open container of alcoholic beverages in a public place or premises open to the public unless the place or premises has been licensed by the Oregon Liquor Control Commission to sell intoxicating liquor for consumption or on premises for which a permit has been issued by the City.
- B. Except when authorized by the Bend Metropolitan Park and Recreation District, no person shall drink or be in possession of an open container of alcoholic beverages in a park under the control of Bend Metropolitan Park and Recreation District without having first obtained an alcohol consumption permit referenced in BC Chapter 5.55.
- C. A violation of this section is a Class B civil infraction. [Ord. NS-2142, 2010]

1.40.075 Civil Penalty.

The amount required to be paid as a civil penalty shall be established by the Council by ordinance or resolution. The Council may establish the maximum civil penalty by ordinance and may establish the amount to be paid on issuance of a citation by resolution, which may be less than the maximum civil penalty established by ordinance. [Ord. NS-2159, 2011]

1.40.080 Schedule of Penalties.

- A. Infractions for violations of the Bend Code are classified as follows:
 - 1. Class A civil infractions with a maximum civil penalty of \$750.00.
 - 2. Class B civil infractions with a maximum civil penalty of \$400.00.
 - 3. Class C civil infractions with a maximum civil penalty of \$200.00. [Ord. NS-2159, 2011]

1.40.085 Penalty Schedule.

The court is authorized to establish a penalty schedule for any civil infraction. A copy of this schedule is to be kept at the office of the Municipal Court Clerk. [Ord. NS-2159, 2011]

NEWPORT MUNICIPAL CODE

See: <http://www.newportoregon.gov/dept/adm/documents/NewportMunicipalCode.pdf>

9.55.010 Consumption of Alcohol in Certain Public Places Prohibited

The consumption of alcoholic beverages is prohibited in the following locations:

- A. On any street or sidewalk, except as expressly permitted by a state liquor license and/or city permit.
- B. On any city-owned property if the Council by resolution has designated the area as an area where alcohol consumption is not permitted.

9.55.020 Definition of Alcoholic Beverage

For purposes of this chapter, “alcoholic beverage” means any liquid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.

9.55.030 Violation

Violation of this chapter is a civil infraction with a maximum penalty of \$500.00.

LA GRANDE MUNICIPAL CODE

See: <http://www.cityoflagrande.org/muraProjects/mu-raLAG/lagcity/?LinkServID=D22D9DD0-5056-A32F-D568BDE5FF0A7D6E&showMeta=0>

CITY OF LA GRANDE ORDINANCE NUMBER 3189 SERIES 2010

Section 7. CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES PROHIBITED

- A. No person shall consume any alcoholic beverages in or upon any street, alley, or other public place, unless such place has been licensed for that purpose by the Commission; except, however, consumption of alcoholic beverages is permitted in parks owned or operated by the City Council of the City of La Grande, Oregon.
- B. Notwithstanding the foregoing, the City Council of the City of La Grande, Oregon, may, by Resolution, restrict the quantity of alcohol that a person may have in his or her possession, custody, or control within a City park, when the City Council of the City of La Grande, Oregon, determines it is necessary for public safety and convenience.

Section 9. PENALTY CLAUSE

- A. Violation of any Section of this Ordinance is punishable in a Court of Law by a fine not to exceed THREE HUNDRED and NO/100 DOLLARS (\$300.00).
- B. Each day's violation of this Ordinance constitutes a separate violation, subject to the fine established in A. above.