

AOC

Association of
Oregon Counties

Marijuana Legislation Update



**Local
Public
Safety
Coordinating
Council**

O R E G O N

June 13, 2017, Commissioners Board Room, Salem, Oregon

Rob Bovett
AOC Legal Counsel

Outline

- **1. The 2017 Bills**
- **2. SB 302/303 Training**

1. The 2017 Bills

- **ENACTED**

- **Senate Bill 302 (The Marijuana Offense Bill) (2017 c.21)**
- **Senate Bill 303 (The Minor In Possession Bill) (2017 c.20)**
- **Senate Bill 1057 (The Omnibus Bill) (inc medical tracking)**

- **IN PROCESS**

- **Senate Bill 56 (The Miscellaneous Bill)**
- **House Bill 2197 (The State-Tribal Tax Bill)**
- **House Bill 2198 (The Medical Bill) (inc Commission; 20 pounder)**
- **Senate Bill 1015 (The Hemp Transfer Bill)**
- **House Bill 2371 (The Hemp Omnibus Bill)**
- **House Bill 2372 (The Hemp Commission Bill)**



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New and Revised Oregon Marijuana Offenses



PORT OF PORTLAND


Possibility. In every direction.™

Friday, April 14, 2017 (Updated May 8, 2017)

Rob Bovett
Special Prosecutor
Lincoln County District Attorney's Office

Handouts


- **Summary**



Brief Summary of Selected Oregon Marijuana Laws Effective April 21, 2017

Prepared by Rob Bovett
Special Prosecutor, Lincoln County
Legal Counsel, Association of Oregon Counties

Updated April 25, 2017



Measure 91 Personal Allowances (for those 21 and over) ORS 475B.245

Personal possession

Per household
Up to 4 plants, 8 oz bud/leaf, 16 oz solids, 16 oz concentrates, 72 oz liquids, and 1 oz extracts

In a public place
Up to 1 oz bud/leaf (instead of 8)

Delivery (homemade, for no consideration, to those 21 and over)
Up to 1 oz, 16 oz solids, 16 oz concentrates, and 72 oz liquids

Unlawful Possession

Person 21 or older		
Over, but not > 2x	B Viol	2017 e.21 §3(3)(a)
> 2x but not > 4x	B Misd	2017 e.21 §3(3)(b)
> 16x at household	C Fel	2017 e.21 §3(3)(c)(A)
> 8 pounds in public place	C Fel	2017 e.21 §3(3)(c)(B)
Any unlawful extract	A Misd	2017 e.21 §3(2)
> ¼ oz of unlawful extract	C Fel	2017 e.21 §3(3)(c)(C)
All other	A Misd	2017 e.21 §3(2)
Person under 21		
Up to what 21 or older could possess	B Viol	ORS 475B.260(3)(a)
Same while operating a motor vehicle	A Viol	ORS 475B.260(3)(b)
Over what 21 or older could possess	A Misd	2017 e.21 §4(2)
> 16x at household	C Fel	2017 e.21 §4(3)(a)
> 8 pounds in public place	C Fel	2017 e.21 §4(3)(b)
Any unlawful extract	A Misd	2017 e.21 §4(2)
> ¼ oz of unlawful extract	C Fel	2017 e.21 §4(3)(c)
All other	A Misd	2017 e.21 §4(2)

Unlawful Delivery

> 1 oz by person > 21 to > 21 for no consideration	B Misd	2017 e.21 §5(3)(a)
> 16 times personal allowance	C Fel	2017 e.21 §5(3)(b)(A)(g)
> 8 pounds in public place	C Fel	2017 e.21 §5(3)(b)(A)(g)
> ¼ oz of unlawful extract	C Fel	2017 e.21 §5(3)(b)(A)(iii)
To person < 21, except if person < 24 to person 16 or older for no consideration	C Fel	2017 e.21 §5(3)(b)(B)
All other	A Misd	2017 e.21 §5(2)

Unlawful Manufacture

Over, but not > 8 plants (person 21 or older)	B Misd	2017 e.21 §6(3)(a)
> 12 plants	C Fel	2017 e.21 §6(3)(b)(A)
> 2x products or concentrates	C Fel	2017 e.21 §6(3)(b)(B)
Any extract	B Fel	2017 e.21 §6(3)(c)
All other	A Misd	2017 e.21 §6(2)

- **PowerPoint**





New and Revised Oregon Marijuana Offenses




Friday, April 14, 2017

Rob Bovett
Special Prosecutor
Lincoln County District Attorney's Office



Future Handouts

- Updated Pamphlet
- Updated Code




2016 Edition


New Oregon Marijuana Offenses

March 3, 2016

UPDATED
March 16, 2016



UPDATED
April 5, 2016



Selected Oregon Marijuana Laws
as amended through the 2016 Oregon Legislative Session

Disclaimer: This document was prepared by Rob Bovett, AOC Legal Counsel, to assist members of AOC and law enforcement regarding current marijuana laws, since the next edition of Oregon Revised Statutes (ORS) will not be published until the beginning of 2018, and many marijuana laws were changed by the 2016 session of the Oregon legislature. This is not a comprehensive list of all Oregon laws applicable to marijuana. It is merely selected provisions. Please consult with your own legal counsel regarding legal advice concerning marijuana.

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CROSS-REFERENCES

<u>2015 Legislation</u>	<u>Also Known As</u>	<u>Governor Signed</u>	<u>Reference</u>
House Bill 2041	The Retail Tax Bill	July 20, 2015	2015 c.699
House Bill 3400	The Omnibus Bill	June 30, 2015	2015 c.614
Senate Bill 460	The Early Start Bill	July 27, 2015	2015 c.784
Senate Bill 844	The Miscellaneous Bill	August 12, 2015	2015 c.844

<u>2016 Legislation</u>	<u>Also Known As</u>	<u>Governor Signed</u>	<u>Reference</u>
House Bill 4014	The Base Bill	March 3, 2016	2016 c.24
House Bill 4060	The Hemp Bill	March 29, 2016	2016 c.71
House Bill 4094	The Banking Bill	April 4, 2016	2016 c.97
Senate Bill 1511	The Expanded Access Bill	March 29, 2016	2016 c.83
Senate Bill 1598	The Christmas Tree Bill	March 3, 2016	2016 c.23
Senate Bill 1601	The Tax Provisions Bill	March 29, 2016	2016 c.91

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Disclaimer

- **These materials and presentation have been prepared by Rob Bovett, Special Prosecutor with the Lincoln County District Attorney's Office, for use in guiding Lincoln County law enforcement personnel in the implementation of new laws relating to marijuana offenses that went into effect on April 21, 2017. Any other law enforcement personnel should check with their own District Attorney before relying on these materials or presentation.**



Mostly Won't Be Covering Today

- OLCC or OHA licensee offenses



Oregon
Health
Authority



Let's Start Here

- **Section 6 of Measure 91, as amended (ORS 475B.245)**
 - **Personal possession**
 - Per household: Up to 4 plants, 8 oz, 16 oz solids, 16 oz concentrates, 72 oz liquids, and 1 oz extracts
 - In a public place: Up to 1 oz
 - **Delivery**
(homemade, for no consideration, to those 21 and over)
 - Up to 1 oz, 16 oz solids, 16 oz concentrates, and 72 oz liquids



Visual aid, courtesy of PPB

POSSESSING MARIJUANA:

a visual aid

PORTLAND POLICE BUREAU

Sworn to Protect  *Dedicated to Serve*

1 OUNCE



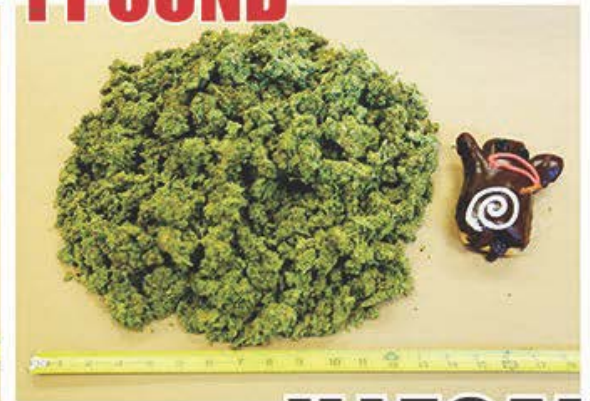
LEGAL on person

8 OUNCES



LEGAL in household

1 POUND



ILLEGAL

“Concentrate” versus “Extract”

- **Concentrates**
 - Mechanical extraction, or chemical extraction using non-hydrocarbon based solvent, with no high-heat or pressure
- **Extracts**
 - Chemical extraction process using hydrocarbon-based solvent, or using high heat or pressure



Public health and safety issues with BHO

Butane hash oil explosion rocks Parkrose house



Investigators said Monday's explosions in a Parkrose home were caused by butane hash oil production. Hash oil, a potent and popular form of cannabis, can be made using butane, a highly flammable gas. BHO can be consumed using discreet portable pen-like devices or specially outfitted pipes called oil rigs. A small bit of hash oil is placed in the pipe's compartment, which is heated with a torch. The hash vaporizes and the consumer inhales through the pipe, a technique called "dabbing." *(Beth Nakamura/The Oregonian)*



By Noelle Crombie | [The Oregonian/OregonLive](#)

[Email the author](#) | [Follow on Twitter](#)

on March 08, 2016 at 11:43 AM, updated March 15, 2016 at 9:24 AM



LEGAL MARIJUANA



How much pot can Oregonians possess?

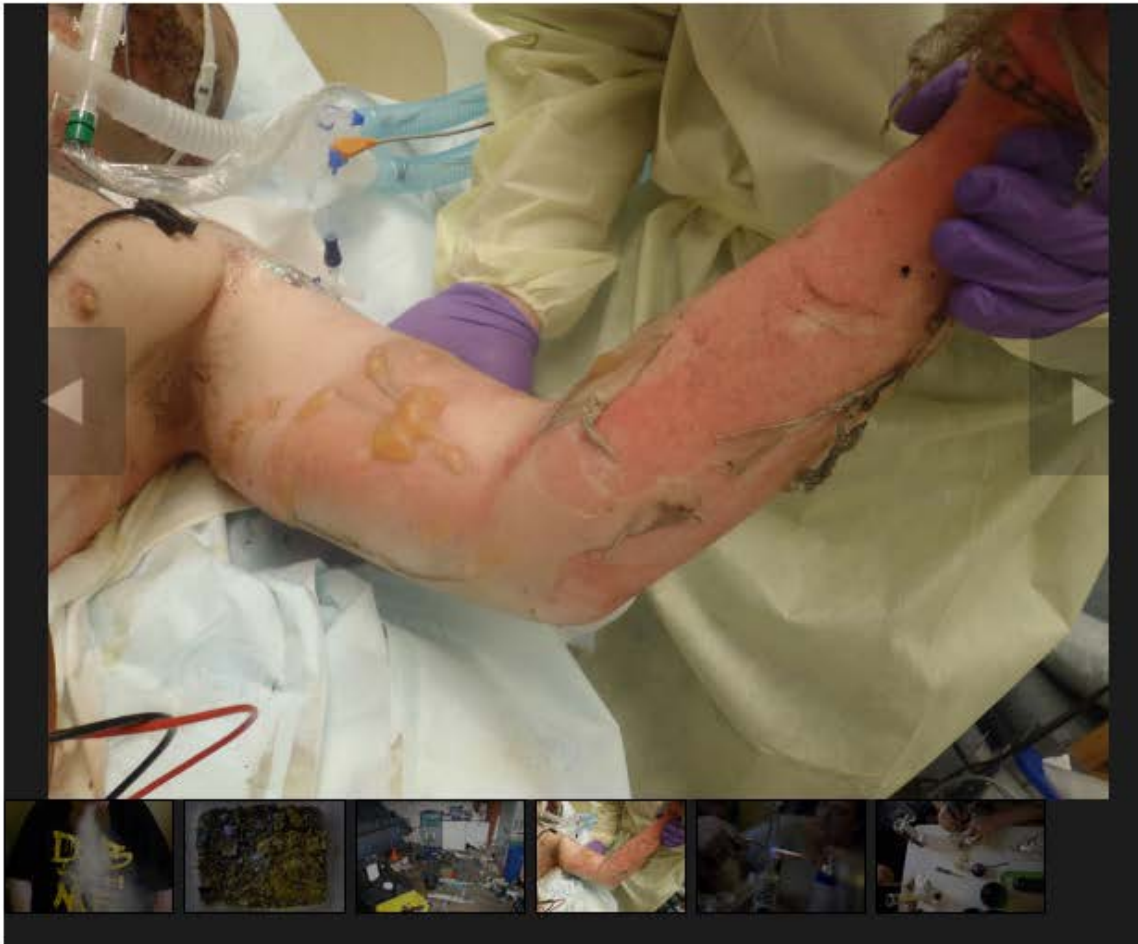
Now that recreational marijuana is legal in Oregon, more Oregonians are interested in growing it.

Pot Grow Diary: The Oregonian grows weed. We've got seeds and clones.

- ▶ Should I grow marijuana indoors or outdoors? | [Growing 'Grass' \(Part 1\)](#)
- ▶ Should I grow marijuana from seed or clone? | [Growing 'Grass' \(Part 2\)](#)
- ▶ How to sprout marijuana seeds | [Growing 'Grass' \(Part 3\)](#)



Homemade butane hash oil prohibited under Oregon's new legal marijuana law



May 5, 2012 - Legacy Emanuel Medical Center, home to the state's only burn unit, released to The Oregonian this image of a patient burned in a BHO explosion. "All have caused major injuries," Dr. Nick Eshraghi, a surgeon and associate director of Legacy Emanuel Medical Center's burn unit, said of the butane explosions. "You are talking about an entire room being engulfed in flames and one's clothing

Most Read



Want to grow your own marijuana? Here is how to get started in Oregon



Driving with marijuana in Oregon: Reader questions



Ask me anything: Noelle Crombie, Jeff Mapes take your questions as marijuana becomes legal in Oregon

Legal marijuana



The New and Revised Offenses

- **With the personal allowance provisions in mind, let's next look at what the new and revised marijuana offenses look like . . .**



Trade Offs in SB 302 and SB 303

Juilliard-trained cellist busted in Oregon with 113 pounds of marijuana in his car

BY DAN GOOD / NEW YORK DAILY NEWS / Tuesday, February 16, 2016, 2:29 PM

A A A



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nydn.us/1RKpgGA

COPY



OREGON STATE POLICE

Police released an image showing the marijuana found in David Huckaby's car.



Unlawful Possession

- **21 and over**

- | | | |
|------------------------------|--------|-----------------------|
| • Over, but not > 2x | B Viol | 2017 c.21 §3(3)(a) |
| • > 2x but not > 4x | B Misd | 2017 c.21 §3(3)(b) |
| • > 16x at household | C Fel | 2017 c.21 §3(3)(c)(A) |
| • > 8 pounds in public place | C Fel | 2017 c.21 §3(3)(c)(B) |
| • Any unlawful extract | A Misd | 2017 c.21 §3(2) |
| • > ¼ oz of unlawful extract | C Fel | 2017 c.21 §3(3)(c)(C) |
| • All other | A Misd | 2017 c.21 §3(2) |



Unlawful Possession

- **Under 21**

- Up to what 21 or older could possess B Viol ORS 475B.260(3)(a)
 - Same while operating a motor vehicle A Viol ORS 475B.260(3)(b)
- Over what 21 or older could possess A Misd 2017 c.21 §4(2)
- > 16x at household C Fel 2017 c.21 §4(3)(a)
- > 8 pounds in public place C Fel 2017 c.21 §4(3)(b)
- Any unlawful extract A Misd 2017 c.21 §4(2)
- > ¼ oz of unlawful extract C Fel 2017 c.21 §4(3)(c)
- All other A Misd 2017 c.21 §4(2)



Unlawful Delivery

- > 1 oz by person > 21 to
> 21 for no consideration B Misd 2017 c.21 §5(3)(a)
- > 16 times personal allowance C Fel 2017 c.21 §5(3)(b)(A)(i)
- > 8 pounds in public place C Fel 2017 c.21 §5(3)(b)(A)(ii)
- > ¼ oz of unlawful extract C Fel 2017 c.21 §5(3)(b)(A)(iii)
- To person < 21
 except if person < 24
 to person 16 or older
 for no consideration C Fel 2017 c.21 §5(3)(b)(B)
- All other A Misd 2017 c.21 §5(2)

NOTE: Enhancement for within 1,000 feet of a school repealed



Unlawful Manufacture

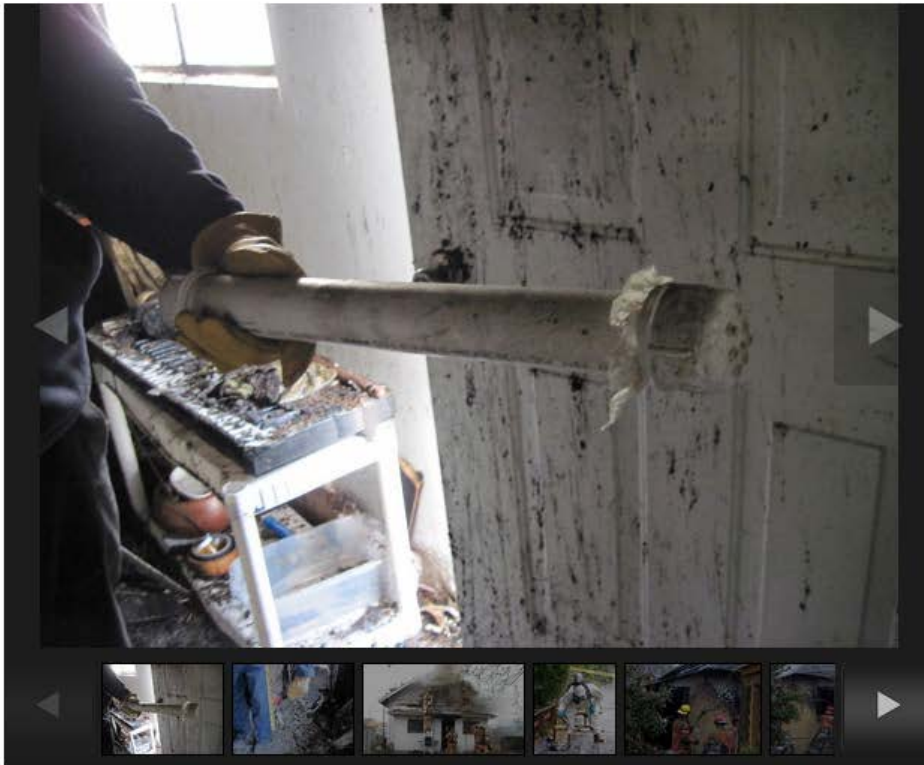
- | | | |
|--|--------|-----------------------|
| • Over, but not > 8 plants
(person 21 or older) | B Misd | 2017 c.21 §6(3)(a) |
| • > 12 plants | C Fel | 2017 c.21 §6(3)(b)(A) |
| • > 2x products or concentrates | C Fel | 2017 c.21 §6(3)(b)(B) |
| • Any extract | B Fel | 2017 c.21 §6(3)(c) |
| • All other | A Misd | 2017 c.21 §6(2) |

NOTE: Enhancement for within 1,000 feet of a school repealed



Public health and safety issues with BHO

Butane hash oil: A single spark can lead to an explosion during production



Authorities combing through the scene of a November 2011 butane hash oil explosion in Medford found this pipe, which was used to make hash oil. The butane exploded when a heater in the home turned on. Seven people, including two children, escaped. Police said Clayton Morgan, 30, was making BHO in the bathtub when the blast occurred. Morgan and a woman in the house were burned in the blast, which

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Legal marijuana



Arson Incident to Manufacture

- In the Second Degree C Fel 2017 c.21 §9a
 - Similar to Arson in the Second Degree
 - Damage to
 - Any building of another person that is not protected property
 - The property of another, if the damages to the property exceed \$750



Import or Export

- > personal allowance A Misd ORS 475B.185(4)(a)(A)
 - > 16x personal allowance C Fel ORS 475B.185(4)(b)(B)
 - Any unlawful extract C Fel ORS 475B.185(4)(b)(B)
 - By OLCC licensee
 - For consideration C Fel ORS 475B.185(4)(b)(A)
 - For no consideration A Misd ORS 475B.185(4)(a)(A)
 - All other B Viol ORS 475B.185(3)
-
- NOTE: “Export” is complete when marijuana item is “placed in any mode of transportation for hire, such as luggage, mail or parcel delivery, even if the transportation of the marijuana item is intercepted prior to the marijuana item leaving this state.” - ORS 475B.185(1)



Everything Else

- Is mostly unchanged in substance
- But let's quickly review them . . .



Three that Moved

- **Causing another to ingest** A/B Fel 2017 c.21 §11
 - Similar to ORS 475.908
- **Administering to person under 18** A Fel 2017 c.21 §12
 - Similar to ORS 475.910
- **Sale of paraphernalia to person under 21** B Viol 2017 c.21 §14
 - Similar to ORS 475.525



Use of Marijuana in a Motor Vehicle

2016 c.24 §49

- (1) As used in this section:
 - (a) “Consumes” includes the inhalation of smoke from a marijuana item by a driver or passenger of a motor vehicle.
 - (b) “Marijuana item” has the meaning given that term in ORS 475B.015.
- (2) A person commits the offense of use of marijuana in a motor vehicle if the person consumes in any manner a marijuana item while in a motor vehicle when the motor vehicle is upon a highway.
- (3) This section does not apply to passengers in a motor vehicle that is operated by a common carrier and used primarily to carry passengers for hire.
- (4) Use of marijuana in a motor vehicle, is a Class B traffic violation.



DUII

- **Unchanged**

- **A Misd** **ORS 813.010**
- **C Fel** **ORS 813.010(5)**
 ORS 813.011

Marijuana DUIIs expected to increase

[f Recommend](#) 0 [T](#) [T](#) 0 [g+1](#) 0 [Share](#) [Print](#) [Email](#) [★](#)



Godofredo Vasquez, Mid-Valley Sunday

Sgt. Ben Drongesen, Drug Recognition Expert with the Benton County Sheriffs Office, talks about using stethoscopes and blood pressure cuffs to evaluate if someone is under the influence of drugs.

[Buy Now](#)



Use of Minor in Controlled Substance Offense

Manufacture, transport, delivery

- < 1 oz for no consideration A Misd ORS 167.262(1)/(2)(b)
- Other A Fel ORS 167.262(1)/(2)(a)



Producing, processing, storing in public view

ORS 475B.250

- (1) A person may not produce, process, possess or store homegrown marijuana, cannabinoid products or cannabinoid concentrates if the homegrown marijuana, cannabinoid products or cannabinoid concentrates can be seen by normal unaided vision from a public place.
- (2) A person may not possess or store a cannabinoid extract if the cannabinoid extract can be seen by normal unaided vision from a public place.
- (3) A violation of subsection (1) or (2) of this section is a Class B violation.



Use of Marijuana in a Public Place

ORS 475B.280

- (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.



Providing False ID of Age

ORS 475B.265

- (1) A person may not produce any piece of identification that falsely indicates the person's age.
- (2) Violation of this section is a Class A misdemeanor.
- (3) If a piece of identification is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of a marijuana item to a person under 21 years of age, the licensee or licensee representative is not guilty of any offense prohibiting a person from selling or serving a marijuana item to a person under 21 years of age unless it is demonstrated that a reasonable person would have determined that the identification exhibited by the person under 21 years of age was altered, or that the identification exhibited by the person under 21 years of age did not accurately describe the person to whom the marijuana item was sold or served.



Providing Marijuana to Intoxicated Person

ORS 475B.270(1)

- (1) A person may not sell, give or otherwise make available a marijuana item to a person who is visibly intoxicated.
- (3) Violation of this section is a Class A misdemeanor.



Allowing Consumption by Minor on Property

ORS 475B.270(2)

- (2)(a) A person who exercises control over private real property may not knowingly allow a person under 21 years of age to consume a marijuana item on the property, or allow another person under 21 years of age to remain on the property if the person under 21 years of age consumes a marijuana item 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; and
 - (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 housing unit in which the owner or agent resides.
- (3) Violation of this section is a Class A misdemeanor.



Processing Extract into Another Product

ORS 475B.255

- (1) A person other than a marijuana processor that holds a license issued under ORS 475B.090 may not process cannabinoid extracts into a cannabinoid product.
- (2) Violation of this section is a Class A misdemeanor.



Giving Marijuana as a Prize

ORS 475B.275

- (1) A marijuana item may not be given as a prize, premium or consideration for a lottery, contest, game of chance, game of skill or competition of any kind.
- (2) Violation of this section is a Class A misdemeanor.





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Questions?



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