



Memorandum Date: June 28, 2022

Order Date: July 12, 2022

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TO:	Board of County Commissioners
DEPARTMENT:	County Administration
PRESENTED BY:	Alex Cuyler-Lane County Intergovernmental Relations Manager
AGENDA ITEM TITLE:	Discussion: Measure 109 Implementation and Associated Role of Local Government

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I. MOTION

This item is for discussion only, and could (or could not) result in a further direction for staff to engage in a formal process to evolve a Lane County Ordinance and subsequent referral of that Ordinance to the voters of Lane County.

II. AGENDA ITEM SUMMARY

Measure 109 was passed by voters at the November 3, 2020 statewide election. It authorized the Oregon Health Authority to create a program to permit licensed service providers to administer psilocybin-producing mushroom and fungi products to individuals 21 years of age or older in conjunction with therapy. The measure includes a provision for local governments to prohibit psilocybin production, psilocybin treatment (via “service centers”) or both. In order to prohibit these activities the Measure requires the local government to adopt an Ordinance which it then must refer to voters at the next General Election. Given the Board’s calendar and election timelines, this memo summarizes the possible next steps for Lane County.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

- The Lane County Board of Commissioners has never discussed Measure 109 in detail.
- The Board of Commissioners did adopt a recreational marijuana taxation Ordinance that it referred to voters at the November 8, 2016 election (passed)

- Staff understand Coburg, Lowell, Dunes City, and Cottage Grove are forwarding an opt-out Ordinance to its voters.
- Staff understands Linn County will forward an opt out Ordinance to its voters.
- Staff understands that Commissioners Deschutes, Washington, Marion, and Multnomah Counties are currently considering next steps.

B. Policy Issues

This issue does not neatly fit into any existing County Policy. Oregon is the first state in the country to implement a therapy program that involves treatment in conjunction with psilocybin. See the “Analysis” section for additional discussion of land use and other issues.

C. Board Goals

This issue does not neatly fit into any existing County Policy. Oregon is the first state in the country to implement a therapy program that involves treatment in conjunction with psilocybin.

D. Financial and/or Resource Considerations

The Board should be aware that referring an issue to the voters of unincorporated Lane County would require some additional work for the County Clerk in terms of preparing the ballot and carrying out the election. These costs have not necessarily been budgeted for.

E. Health Implications

For the purposes of this Discussion, there are not significant health implications.

F. Analysis

Measure 109 was presented to Oregon voters at the November, 2020 election and passed with 56% of Oregon voters voting in the affirmative. In Lane County 60% of voters approved of the measure, with 19 of 80 precincts voting to oppose.

Measure 109, once approved by voters, and was codified into law in ORS Chapter 475A. The Oregon Health Authority formed a new Psilocybin Services Section within the Public Health Division to implement Measure 109. It is working to build the regulatory framework for psilocybin services. As with many citizen initiatives, the text of the measure has certain inconsistencies related to its construction that may or may not be addressed by future Legislative Assemblies.

The Oregon Health Authority has two rulemaking procedures it is pursuing as a result of passing the law; a set to address training programs and product testing it has already promulgated, and a set to address everything else, which it has not yet promulgated. It expects to finalize the second set of rules by December 31, 2022 so

that it may begin receiving applications for licensure on January 2, 2023.

OHA may issue four types of licensure:

- Manufacturer-growing and harvesting the psilocybin product
- Psilocybin Service Center-the place where a client purchases, consumes, and experiences the effects of psilocybin under supervision of a facilitator.
- Facilitator-an individual who meets with clients before, during, and after the psilocybin session.
- Tester-a laboratory that tests and certifies psilocybin products produced by a manufacturer.

Summary information about M109

- Unlike with the recreational marijuana program, counties are automatically opted in to the psilocybin program. However, a governing body of a city or county may adopt ordinances to be referred to the electors of the city or county at the next statewide general election to allow or prohibit the establishment of psilocybin production (cultivation), manufacturing (processing / edibles) or service centers (commercial land use).
- If a county or city takes no action, it is automatically opted in to the program under the regulations established in Measure 109 and subsequent rulemaking.
- Any individual 21-years or older may purchase, possess, and consume a psilocybin product only at a psilocybin service center, and only under the supervision of a psilocybin service facilitator.
- Counties may adopt “reasonable” time, place, and manner regulations; however, they cannot adopt separation distances that limit service centers greater than 1,000 feet from one another
- The program requires counties to sign a Land Use Compatibility Statement (LUCS) that demonstrates that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The LUCS must be provided within 21 days from the initial application.
- Psilocybin-producing fungi is recognized as a crop for the purpose of a farm use, a farm, and farming practice. Therefore, growing is permitted outright on Exclusive Farm Use (EFU) land and if a county chooses, it can also be recognized in other zones where farm or forest uses are allowed.
- Psilocybin-producing fungi must be grown indoors.
- Commercial activities in conjunction with farm use do not apply to growing psilocybin. However, the operation of a psilocybin service center may be carried on in conjunction with a psilocybin producing fungi crop on Exclusive Farm Use land.
- Service centers may not be located within 1,000 feet of elementary or secondary schools (500 feet if there is a physical or geographic barrier).
- Service centers may not be located in municipalities on lands zoned exclusively for residential use. While the language in statute is less than

clear, it appears that service centers are not prohibited from residential zones in unincorporated regions of counties.

- Facilitators are required to pass an OHA exam. Possessing a medical license is not required.
- A psilocybin service center is not a health care facility subject to ORS chapter 441.

Staff notes that several questions remain unanswered with respect to the implementation of Measure 109:

- The uncertainty around what the remaining OHA rulemaking will bring.
- The uncertainty around sections of current law and whether the 2023 Legislature will undertake efforts to clarify the intent of the law.
- The uncertainty about any federal response to the implementation of Measure 109.
  - Psilocybin is considered a Schedule 1 drug (Hallucinogenic) under the US Code of Federal Regulations Title 21.
  - The US Food and Drug Administration has designated psilocybin therapy as a “breakthrough” therapy for treating depression, an action that is meant to accelerate the typically slow process of drug development and review. Additional clinical trials are continuing.

#### G. Alternatives/Options

The Board May:

- Direct staff to schedule work on time, place, manner ordinances
- Do nothing. This would mean ORS Chapter 475A and the OHA rulemaking to become the operative framework.
- Direct staff to begin work on an opt-out process (permanent or temporary). An opt-out ordinance would take a minimum of two readings (separated by two weeks) and must be referred to the Clerk by August 19, 2022. This would entail:
  - July 19, first reading
  - August 2 public hearing and second reading
  - August 9 (referral order)
  - If directed by the Board, could include the development of a Voter Pamphlet Explanatory Statement Committee.

#### IV. RECOMMENDATION

Staff is without recommendation on this issue.

#### V. TIMING/IMPLEMENTATION

See also the Alternative/Options section. In order to qualify for the November ballot,

measures must be provided to the County Clerk's office by August 19<sup>th</sup>, and Explanatory Statements (for the Statewide Voters Pamphlet) must be provided to the County Clerk's office by August 24.

VI. FOLLOW-UP

If the Board indicates it would like staff to move forward, staff will take the appropriate steps to prepare the necessary documents; Draft Ordinance, and associated Board Orders.

VII. ATTACHMENTS

Attachment A: Text of Measure 110

AN ACT

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



SECTION 1. Findings.

The People of the State of Oregon find that:

- (1) Oregon has the one of the highest prevalence of mental illness among adults in the nation;
- (2) An estimated one in every five adults in Oregon is coping with a mental health condition;
- (3) The Governor has declared addiction as a public health crisis in this state;
- (4) The 2019–2021 Governor’s Budget proposes spending over \$2.8 billion on mental health and behavioral health programs;
- (5) Studies conducted by nationally and internationally recognized medical institutions indicate that psilocybin has shown efficacy, tolerability, and safety in the treatment of a variety of mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress;
- (6) The United States Food and Drug Administration has:
  - (a) Determined that preliminary clinical evidence indicates that psilocybin may demonstrate substantial improvement over available therapies for treatment-resistant depression; and
  - (b) Granted a Breakthrough Therapy designation for a treatment that uses psilocybin as a therapy for such depression;
- (7) The Oregon Health Authority has direct supervision of all matters relating to the preservation of life and health of the people of this state;
- (8) During a two-year program development period, the authority should:
  - (a) Examine, publish, and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions; and
  - (b) Adopt rules and regulations for the eventual implementation of a comprehensive regulatory framework that will allow persons 21 years of age and older in this state to be provided psilocybin services; and
- (9) An advisory board should be established within the authority for the purpose of advising and making recommendations to the authority.

## **SECTION 2. Purposes of this 2020 Act.**

(1) The People of the State of Oregon declare that the purposes of this 2020 Act are:

(a) To educate the people of this state about the safety and efficacy of psilocybin in treating mental health conditions;

(b) To reduce the prevalence of mental illness among adults in this state, and to improve the physical, mental, and social well-being of all people in this state;

(c) To develop a long-term strategic plan for ensuring that psilocybin services will become and remain a safe, accessible and affordable therapeutic option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate;

(d) To protect the safety, welfare, health and peace of the people of this state by prioritizing this state's limited law enforcement resources in the most effective, consistent and rational way; and

(e) After a two-year program development period, to:

(A) Permit persons licensed, controlled and regulated by this state to legally manufacture psilocybin products and provide psilocybin services to persons 21 years of age and older, subject to the provisions of this 2020 Act; and

(B) Establish a comprehensive regulatory framework concerning psilocybin products and psilocybin services under state law.

(2) The People of the State of Oregon intend that the provisions of this 2020 Act, together with other provisions of state law, will:

(a) Prevent the distribution of psilocybin products to other persons who are not permitted to possess psilocybin products under the provisions of sections 3 to 129 of this 2020 Act and rules adopted under sections 3 to 129 of this 2020 Act, including but not limited to persons under 21 years of age; and

(b) Prevent the diversion of psilocybin products from this state to other states.

## **SECTION 3. Short title.**

Sections 3 to 129 of this 2020 Act shall be known and may be cited as the Oregon Psilocybin Services Act.

## **SECTION 4. Construction.**

Sections 3 to 129 of this 2020 Act may not be construed:

- (1) To require a government medical assistance program or private health insurer to reimburse a person for costs associated with the use of psilocybin products;
- (2) To amend or affect state or federal law pertaining to employment matters;
- (3) To amend or affect state or federal law pertaining to landlord-tenant matters;
- (4) To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession or use of psilocybin products to the extent necessary to satisfy federal requirements for the grant;
- (5) To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession or use of psilocybin products to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;
- (6) To require a person to violate a federal law;
- (7) To exempt a person from a federal law or obstruct the enforcement of a federal law; or
- (8) To amend or affect state law, to the extent that a person does not manufacture, deliver, or possess psilocybin products in accordance with the provisions of sections 3 to 129 of this 2020 Act and rules adopted under sections 3 to 129 of this 2020 Act.

#### **SECTION 5. Definitions.**

As used in sections 3 to 129 of this 2020 Act:

- (1) "Administration session" means a session held at a psilocybin service center at which a client purchases, consumes, and experiences the effects of a psilocybin product under the supervision of a psilocybin service facilitator.
- (2) "Client" means an individual that is provided psilocybin services in this state.
- (3) "Integration session" means a meeting between a client and a psilocybin service facilitator that may occur after the client completes an administration session.
- (4) "Legal entity" means a corporation, limited liability company, limited partnership, or other legal entity that is registered with the office of the Secretary of State or with a comparable office of another jurisdiction.
- (5) "Licensee" means a person that holds a license issued under section 23, 26, 30 or 97 of this 2020 Act.



(6) "Licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

(7) "Manufacture" means the manufacture, planting, cultivation, growing, harvesting, production, preparation, propagation, compounding, conversion or processing of a psilocybin product, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the psilocybin product or labeling or relabeling of its container.

(8)(a) "Premises" includes the following areas of a location licensed under sections 3 to 129 of this 2020 Act:

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

(B) All areas outside a building that the Oregon Health Authority has specifically licensed for the manufacturing of psilocybin products or the operation of a psilocybin service center; and

(C) For a location that the authority has specifically licensed for the operation of a psilocybin service center outside a building, that portion of the location used to operate the psilocybin service center and provide psilocybin services to clients.

(b) "Premises" does not include a primary residence.

(9) "Preparation session" means a meeting between a client and a psilocybin service facilitator that must occur before the client participates in an administration session.

(10) "Psilocybin" means psilocybin or psilocin.

(11) "Psilocybin product manufacturer" means a person that manufactures psilocybin products in this state.

(12)(a) "Psilocybin products" means:

(A) Psilocybin-producing fungi; and

(B) Mixtures or substances containing a detectable amount of psilocybin.

(b) "Psilocybin products" does not include psilocybin services.

(13) "Psilocybin service center" means an establishment:

(a) At which administration sessions are held; and

(b) At which other psilocybin services may be provided.

(14) "Psilocybin service center operator" means a person that operates a psilocybin service center in this state.

(15) "Psilocybin service facilitator" means an individual that facilitates the provision of psilocybin services in this state.

(16) "Psilocybin services" means services provided to a client before, during, and after the client's consumption of a psilocybin product, including:

- (a) A preparation session;
- (b) An administration session; and
- (c) An integration session.

(17) "Two-year program development period" means the period beginning on January 1, 2021 and ending no later than December 31, 2022.

## **OREGON PSILOCYBIN ADVISORY BOARD**

### **SECTION 6. Members; terms; meetings; compensation.**

(1)(a) The Oregon Psilocybin Advisory Board is established within the Oregon Health Authority for the purpose of advising and making recommendations to the authority. The Oregon Psilocybin Advisory Board shall consist of:

(A) Fourteen to sixteen members appointed by the Governor as specified in paragraph (b) of this subsection;

(B) The Public Health Director or the Public Health Director's designee;

(C) If the Public Health Director is not the State Health Officer, the State Health Officer or a physician licensed under ORS chapter 677 acting as the State Health Officer's designee;

(D) If the Public Health Director is the State Health Officer, a representative from the Oregon Health Authority who is familiar with public health programs and public health activities in this state; and

(E) A designee of the Oregon Health Policy Board.

(b) The Governor shall appoint the following individuals to the board:

(A) Any four of the following:

- (i) A state employee who has technical expertise in the field of public health;
- (ii) A local health officer, as defined in ORS 431.003;

(iii) An individual who is a member of, or who represents, a federally recognized Indian tribe in this state;

(iv) An individual who is a member of, or who represents, the Addictions and Mental Health Planning and Advisory Council within the authority;

(v) An individual who is a member of, or who represents, the Health Equity Policy Committee within the authority;

(vi) An individual who is a member of, or who represents, the Palliative Care and Quality of Life Interdisciplinary Advisory Council within the authority; and

(vii) An individual who represents individuals who provide public health services directly to the public;

(B) A psychologist licensed under ORS chapter 675 who has professional experience engaging in the diagnosis or treatment of a mental, emotional, or behavioral condition;

(C) A physician licensed under ORS chapter 677 who holds a degree of Doctor of Medicine;

(D) A naturopathic physician licensed under ORS chapter 685;

(E) An expert in the field of public health who has a background in academia;

(F) Any three of the following:

(i) A person who has professional experience conducting scientific research regarding the use of psychedelic compounds in clinical therapy;

(ii) A person who has experience in the field of mycology;

(iii) A person who has experience in the field of ethnobotany;

(iv) A person who has experience in the field of psychopharmacology; and

(v) A person who has experience in the field of psilocybin harm reduction;

(G) A person representing the Oregon Liquor Control Commission who has experience working with the system developed and maintained by the commission under ORS 475B.177 for tracking the transfer of marijuana items;

(H) A person representing the Oregon Department of Justice; and

(I) The following:

(i) During the two-year program development period:

(I) One of the chief petitioners of this 2020 Act; and

(II) One or two at-large members; and

- (ii) After the two-year program development period, one, two, or three at-large members.
- (2)(a) The term of office for a board member appointed under this section is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.
- (b) Members of the board described in subsection (1)(a)(B) to (E) of this section are nonvoting ex officio members of the board.
- (3) A majority of the voting members of the board constitutes a quorum for the transaction of business.
- (4) Official action by the board requires the approval of a majority of the voting members of the board.
- (5) The board shall elect one of its voting members to serve as chairperson.
- (6) During the two-year program development period, the board shall meet at least once every two calendar months at a time and place determined by the chairperson or a majority of the voting members of the board. After the two-year program development period, the board shall meet at least once every calendar quarter at a time and place determined by the chairperson or a majority of the voting members of the board. The board also may meet at other times and places specified by the call of the chairperson or of a majority of the voting members of the board.
- (7) The board may adopt rules necessary for the operation of the board.
- (8) The board may establish committees and subcommittees necessary for the operation of the board.
- (9) Members of the board are entitled to compensation and expenses as provided in ORS 292.495.

#### **SECTION 7. Duties of Oregon Psilocybin Advisory Board.**

The Oregon Psilocybin Advisory Board shall:

- (1) Provide advice to the Oregon Health Authority with respect to the administration of sections 3 to 129 of this 2020 Act;
- (2) Make recommendations to the authority on available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating

mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress;

(3) Make recommendations to the authority on the requirements, specifications and guidelines for providing psilocybin services to a client, including:

(a) The requirements, specifications and guidelines for holding and verifying the completion of a preparation session, an administration session, and an integration session; and

(b) The contents of the client information form that a client must complete and sign before the client participates in an administration session, giving particular consideration to:

(A) The information that should be solicited from the client to determine whether the client should participate in the administration session, including information that may identify risk factors and contraindications;

(B) The information that should be solicited from the client to assist the psilocybin service center operator and the psilocybin service facilitator in meeting any public health and safety standards and industry best practices during the administration session; and

(C) The health and safety warnings and other disclosures that should be made to the client before the client participates in the administration session.

(4) Make recommendations to the authority on public health and safety standards and industry best practices for each type of licensee under sections 3 to 129 of this 2020 Act;

(5) Make recommendations to the authority on the formulation of a code of professional conduct for psilocybin service facilitators, giving particular consideration to a code of ethics;

(6) Make recommendations to the authority on the education and training that psilocybin service facilitators must complete:

(a) Giving particular consideration to:

(A) Facilitation skills that are affirming, non-judgmental, and non-directive;

(B) Support skills for clients during an administration session, including specialized skills for:

(i) Client safety; and

(ii) Clients who may have a mental health condition;

(C) The environment in which psilocybin services should occur; and

(D) Social and cultural considerations; and

(b) Including whether such education and training should be available through online resources;

- (7) Make recommendations to the authority on the examinations that psilocybin service facilitators must pass;
- (8) Make recommendations to the authority on public health and safety standards and industry best practices for holding and completing an administration session, including:
  - (a) Whether group administration sessions should be available;
  - (b) Whether clients should be able to access common or outside areas on the premises of the psilocybin service center at which the administration session is held;
  - (c) The circumstances under which an administration session is considered complete; and
  - (d) The transportation needs of the client after the completion of the administration session;
- (9) Develop a long-term strategic plan for ensuring that psilocybin services will become and remain a safe, accessible and affordable therapeutic option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate;
- (10) Monitor and study federal laws, regulations and policies regarding psilocybin; and
- (11) Attempt to meet with the United States Attorney's Office for the District of Oregon to discuss this 2020 Act and potential federal enforcement policies regarding psilocybin in Oregon after the expiration of the two-year program development period.

## **POWERS AND DUTIES OF OREGON HEALTH AUTHORITY**

### **SECTION 8. General powers and duties; rules.**

- (1) The Oregon Health Authority has the duties, functions and powers specified in sections 3 to 129 of this 2020 Act and the powers necessary or proper to enable the authority to carry out the authority's duties, functions and powers under sections 3 to 129 of this 2020 Act. The jurisdiction, supervision, duties, functions and powers of the authority extend to any person that produces, processes, transports, delivers, sells or purchases a psilocybin product in this state or that provides a psilocybin service in this state. The authority may sue and be sued.
- (2) The duties, functions and powers of the authority specified in sections 3 to 129 of this 2020 Act include the following:
  - (a) To examine, publish, and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress.

(b) After the two-year program development period:

(A) To regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in this state in accordance with the provisions of sections 3 to 129 of this 2020 Act;

(B) To issue, renew, suspend, revoke or refuse to issue or renew licenses for the manufacturing or sale of psilocybin products, the provision of psilocybin services, or other licenses related to the consumption of psilocybin products, and to permit, in the authority's discretion, the transfer of a license between persons; and

(C) To regulate the use of psilocybin products and psilocybin services for other purposes as deemed necessary or appropriate by the authority.

(c) To adopt, amend or repeal rules as necessary to carry out the intent and provisions of sections 3 to 129 of this 2020 Act, including rules that the authority considers necessary to protect the public health and safety.

(d) To exercise all powers incidental, convenient or necessary to enable the authority to administer or carry out the provisions of sections 3 to 129 of this 2020 Act or any other law of this state that charges the authority with a duty, function or power related to psilocybin products and psilocybin services. Powers described in this paragraph include, but are not limited to:

(A) Issuing subpoenas;

(B) Compelling the attendance of witnesses;

(C) Administering oaths;

(D) Certifying official acts;

(E) Taking depositions as provided by law;

(F) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and

(G) Establishing fees in addition to the application, licensing and renewal fees described in sections 23, 26, 30 and 97 of this 2020 Act, provided that any fee established by the authority is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

(e) To adopt rules prohibiting advertising psilocybin products to the public.

(f) To adopt rules regulating and prohibiting advertising psilocybin services in a manner:

(A) That is appealing to minors;

(B) That promotes excessive use;

(C) That promotes illegal activity;

(D) That violates the code of professional conduct for psilocybin service facilitators formulated by the authority; or

(E) That otherwise presents a significant risk to public health and safety.

(3) The authority may not require that a psilocybin product be manufactured by means of chemical synthesis.

(4) The authority may not require a client to be diagnosed with or have any particular medical condition as a condition to being provided psilocybin services.

(5) Fees collected pursuant to subsection (2)(d)(G) of this section shall be deposited in the Psilocybin Control and Regulation Fund established under section 69 of this 2020 Act.

**SECTION 9. Authority to purchase, possess, seize, transfer to licensee or dispose of psilocybin products.**

Subject to any applicable provision of ORS chapter 183, the Oregon Health Authority may purchase, possess, seize, transfer to a licensee or dispose of psilocybin products as is necessary for the authority to ensure compliance with and enforce the provisions of sections 3 to 129 of this 2020 Act and any rule adopted under sections 3 to 129 of this 2020 Act.

**TWO-YEAR PROGRAM DEVELOPMENT PERIOD**

**SECTION 10. No licenses.**

Unless the Legislative Assembly provides otherwise, the Oregon Health Authority may not issue any licenses under sections 3 to 129 of this 2020 Act during the two-year program development period.

**SECTION 11. Oregon Psilocybin Advisory Board; dates.**

(1) On or before February 28, 2021, the Governor shall appoint the individuals specified in subsection (1)(b) of section 6 of this 2020 Act to the Oregon Psilocybin Board.

(2) On or before March 31, 2021, the board shall hold its first meeting at a time and place specified by the Governor.

(3) On or before June 30, 2021, and from time to time after such date, the board shall submit its findings and recommendations to the Oregon Health Authority on available medical, psychological, and scientific studies, research, and other information relating to the safety and



efficacy of psilocybin in treating mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress.

(4) On or before June 30, 2022, the board shall submit its findings and recommendations:

(a) For rules and regulations for the implementation of sections 3 to 129 of this 2020 Act;

(b) For a long-term strategic plan for ensuring that psilocybin services will become and remain a safe, accessible and affordable therapeutic option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate; and

(c) With respect to federal laws, regulations and policies regarding psilocybin.

#### **SECTION 12. Oregon Health Authority; dates.**

(1) On or before July 31, 2021, and from time to time after such date, the Oregon Health Authority shall publish and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress.

(2) On or before December 31, 2022, the authority shall prescribe forms and adopt such rules and regulations as the authority deems necessary for the implementation of sections 3 to 129 of this 2020 Act.

### **APPLICATION PROCESS AND LICENSES**

#### **SECTION 13. Date.**

On or before January 2, 2023, the Oregon Health Authority shall begin receiving applications for the licensing of persons to:

(1) Manufacture psilocybin products;

(2) Operate a psilocybin service center;

(3) Facilitate psilocybin services; and

(4) Test psilocybin products.

#### **SECTION 14. Application process for all licensees; rules.**

(1) Except as provided in subsection (2) of this section, an applicant for a license or renewal of a license issued under sections 3 to 129 of this 2020 Act shall apply to the Oregon Health Authority in the form required by the authority by rule, showing the name and address of the applicant, location of the premises that is to be operated under the license and other pertinent information required by the authority. The authority may not issue or renew a license until the applicant has complied with the provisions of sections 3 to 129 of this 2020 Act and rules adopted under sections 3 to 129 of this 2020 Act.

(2) The authority may reject any application that is not submitted in the form required by the authority by rule. The authority shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Except as provided in subsection (2) of this section, a revocation of, or a refusal to issue or renew, a license issued under sections 3 to 129 of this 2020 Act is subject to the requirements for contested case proceedings under ORS chapter 183.

(4) An applicant for a facilitator license or renewal of a facilitator license issued under section 30 of this 2020 Act need not show the location of any premises.

#### **SECTION 15. Grounds for refusing to issue license or issuing restricted license.**

(1) The Oregon Health Authority may not license an applicant under the provisions of sections 3 to 129 of this 2020 Act if the applicant is under 21 years of age.

(2) The authority may refuse to issue a license or may issue a restricted license to an applicant under the provisions of sections 3 to 129 of this 2020 Act if the authority makes a finding that the applicant:

(a) Has not completed any education or training required by the provisions of sections 3 to 129 of this 2020 Act or rules adopted under sections 3 to 129 of this 2020 Act.

(b) Has not passed any examination required by the provisions of sections 3 to 129 of this 2020 Act or rules adopted under sections 3 to 129 of this 2020 Act.

(c) Is in the habit of using alcoholic beverages, habit-forming drugs, or controlled substances to excess.

(d) Has made false statements to the authority.

(e) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(f) Has been convicted of violating a federal law, state law or local ordinance if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

(g) Is not of good repute and moral character.

(h) Does not have a good record of compliance with sections 3 to 129 of this 2020 Act or any rule adopted under sections 3 to 129 of this 2020 Act.

(i) Is not the legitimate owner of the premises proposed to be licensed, or has not disclosed that other persons have ownership interests in the premises proposed to be licensed.

(j) Has not demonstrated financial responsibility sufficient to adequately meet the requirements of the premises proposed to be licensed.

(k) Is unable to understand the laws of this state relating to psilocybin products, psilocybin services, or the rules adopted under sections 3 to 129 of this 2020 Act.

(3) Notwithstanding subsection (2)(f) of this section, in determining whether to issue a license or a restricted license to an applicant, the authority may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent or other representative of the applicant for:

(a) The manufacture of psilocybin or the manufacture of a marijuana item, as defined in ORS 475B.015, if:

(A) The date of the conviction is two or more years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture of psilocybin or a marijuana item; or

(b) The possession of a controlled substance, as defined in ORS 475.005, or a marijuana item, as defined in ORS 475B.015, if:

(A) The date of the conviction is two or more years before the date of the application; or

(B) The person has not been convicted more than once for the possession of a controlled substance or a marijuana item.

#### **SECTION 16. Authority to require fingerprints of applicants and other individuals.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under section 14 of this 2020 Act. The powers conferred on the authority under this section include the power to require the fingerprints of:

- (1) If the applicant is a limited partnership, each general partner of the limited partnership;
- (2) If the applicant is a manager-managed limited liability company, each manager of the limited liability company;
- (3) If the applicant is a member-managed limited liability company, each voting member of the limited liability company;
- (4) If the applicant is a corporation, each director and officer of the corporation; and
- (5) Any individual who holds a financial interest of 10 percent or more in the person applying for the license.

#### **SECTION 17. Properties of license.**

A license issued under sections 3 to 129 of this 2020 Act:

- (1) Is a personal privilege.
- (2) Is renewable in the manner provided in section 14 of this 2020 Act, except for a cause that would be grounds for refusal to issue the license under section 15 of this 2020 Act.
- (3) Is revocable or suspendible as provided in section 64 of this 2020 Act.
- (4) Except for a license issued to a psilocybin service facilitator under section 30 of this 2020 Act, is transferable from the premises for which the license was originally issued to another premises subject to the provisions of sections 3 to 129 of this 2020 Act, applicable rules adopted under sections 3 to 129 of this 2020 Act and applicable local ordinances.
- (5) If the license was issued to an individual, expires upon the death of the licensee, except as provided in section 51 of this 2020 Act.
- (6) Does not constitute property.
- (7) Is not alienable.
- (8) Is not subject to attachment or execution.
- (9) Does not descend by the laws of testate or intestate devolution.

#### **SECTION 18. Duties of Oregon Health Authority with respect to issuing licenses.**

- (1) The Oregon Health Authority shall approve or deny an application to be licensed under sections 3 to 129 of this 2020 Act. Upon receiving an application under section 14 of this 2020 Act, the authority may not unreasonably delay processing, approving or denying the application or, if the application is approved, issuing the license.

(2) The licenses described in sections 3 to 129 of this 2020 Act must be issued by the authority, subject to the provisions of sections 3 to 129 of this 2020 Act and rules adopted under sections 3 to 129 of this 2020 Act.

(3) The authority may not license a premises that does not have defined boundaries. A premises does not need to be enclosed by a wall, fence or other structure, but the authority may require a premises to be enclosed as a condition of issuing or renewing a license. The authority may not license a mobile premises.

#### **SECTION 19. Duty to request land use compatibility statement.**

(1) Prior to receiving a license under section 23 or 26 of this 2020 Act, an applicant shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The Oregon Health Authority may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(2) Except as provided in subsection (3) of this section, a city or county that receives a request for a land use compatibility statement under this section must act on that request within 21 days of:

(a) Receipt of the request, if the land use is allowable as an outright permitted use; or

(b) Final local permit approval, if the land use is allowable as a conditional use.

(3) A city or county that receives a request for a land use compatibility statement under this section is not required to act on that request during the period that the authority discontinues licensing those premises pursuant to section 128(4) of this 2020 Act.

(4) A city or county action concerning a land use compatibility statement under this section is not a land use decision for purposes of ORS chapter 195, 196, 197, 215 or 227.

### **LICENSEES IN GENERAL**

#### **SECTION 20. Lawful manufacture, delivery, and possession of psilocybin products.**

Licensees and licensee representatives may manufacture, deliver and possess psilocybin products subject to the provisions of sections 3 to 129 of this 2020 Act and rules adopted under sections 3 to 129 of this 2020 Act. The manufacture, delivery or possession of psilocybin products by a licensee or a licensee representative in compliance with sections 3 to 129 of this 2020 Act and rules

adopted under sections 3 to 129 of this 2020 Act does not constitute a criminal or civil offense under the laws of this state.

**SECTION 21. Restriction on financial interests in multiple licensees.**

An individual may not have a financial interest in:

- (1) More than one psilocybin product manufacturer; or
- (2) More than five psilocybin service center operators.

**SECTION 22. Authority to hold multiple licenses.**

Subject to section 21 of this 2020 Act:

- (1) A person may hold multiple service center operator licenses under section 26 this 2020 Act; and
- (2) A person may hold both a manufacturer license under section 23 this 2020 Act and a service center operator license under section 26 this 2020 Act at the same or different premises.

**LICENSE TO MANUFACTURE PSILOCYBIN PRODUCTS**

**SECTION 23. Manufacturer license; fees; rules.**

- (1) The manufacture of psilocybin products is subject to regulation by the Oregon Health Authority.
- (2) A psilocybin product manufacturer must have a manufacturer license issued by the authority for the premises at which the psilocybin products are manufactured. To hold a manufacturer license issued under this section, a psilocybin product manufacturer:
  - (a) Must apply for a license in the manner described in section 14 of this 2020 Act;
  - (b) Must provide proof that the applicant is 21 years of age or older;
  - (c) Must, until January 1, 2025:
    - (A) If the direct owner of the business operating or to be operated under the license is a legal entity, provide proof that more than 50 percent of the shares, membership interests, partnership interests, or other ownership interests of the legal entity are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years;

(B) If the direct owner of the business operating or to be operated under the license is a partnership that is not a legal entity, provide proof that more than 50 percent of the partnership interests of the partnership are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years; and

(C) If the direct owner of the business operating or to be operated under the license is an individual, provide proof that the individual has been a resident of this state for two or more years; and

(d) Must meet the requirements of any rule adopted by the authority under subsections (3) and (4) of this section.

(3)(a) If the applicant is not the owner of the premises at which the psilocybin is to be manufactured, the applicant shall submit to the authority signed informed consent from the owner of the premises to manufacture psilocybin at the premises.

(b) The authority may adopt rules regarding the informed consent described in this subsection.

(4) The authority shall adopt rules that:

(a) Require a psilocybin product manufacturer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for psilocybin product manufacturers; and

(c) Require psilocybin products manufactured by psilocybin product manufacturers to be tested in accordance with section 96 of this 2020 Act.

(5) Fees adopted under subsection (4)(b) of this section:

(a) May not exceed, together with other fees collected under sections 3 to 129 of this 2020 Act, the cost of administering sections 3 to 129 of this 2020 Act; and

(b) Shall be deposited in the Psilocybin Control and Regulation Fund established under section 69 of this 2020 Act.

#### **SECTION 24. Psilocybin product manufacturers; endorsements.**

(1) The Oregon Health Authority shall adopt rules that designate different types of manufacturing activities. A psilocybin product manufacturer may only engage in a type of manufacturing activity if the psilocybin product manufacturer has received an endorsement from the authority for that type of manufacturing activity.

(2) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.

(3) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.

(4) A psilocybin product manufacturer licensee may hold multiple endorsements.

(5) The authority may deny a psilocybin product manufacturer's request for an endorsement or revoke an existing endorsement if the psilocybin product manufacturer cannot or does not meet the requirements for the endorsement that is requested. If the authority denies or revokes approval the psilocybin product manufacturer has a right to a hearing under the procedures of ORS chapter 183.

#### **SECTION 25. Psilocybin product quantities; rules.**

The Oregon Health Authority shall adopt rules restricting the quantities of psilocybin products at premises for which a license has been issued under section 23 of this 2020 Act. In adopting rules under this section, the authority shall take into consideration the demand for psilocybin services in this state, the number of psilocybin product manufacturers applying for a license under section 23 of this 2020 Act, the number of psilocybin product manufacturers that hold a license issued under section 23 of this 2020 Act and whether the availability of psilocybin products in this state is commensurate with the demand for psilocybin services.

### **LICENSE TO OPERATE PSILOCYBIN SERVICE CENTER**

#### **SECTION 26. Service center operator license; fees; rules.**

(1)(a) The operation of a psilocybin service center is subject to regulation by the Oregon Health Authority.

(b) A psilocybin service center is not a health care facility subject to ORS chapter 441.

(2) A psilocybin service center operator must have a service center operator license issued by the authority for the premises at which psilocybin services are provided. To hold a service center operator license under this section, a psilocybin service center operator:

(a) Must apply for a license in the manner described in section 14 of this 2020 Act;

(b) Must provide proof that the applicant is 21 years of age or older;

(c) Must, until January 1, 2025:

(A) If the direct owner of the business operating or to be operated under the license is a legal entity, provide proof that more than 50 percent of the shares, membership interests, partnership



interests, or other ownership interests of the legal entity are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years;

(B) If the direct owner of the business operating or to be operated under the license is a partnership that is not a legal entity, provide proof that more than 50 percent of the partnership interests of the partnership are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years; and

(C) If the direct owner of the business operating or to be operated under the license is an individual, provide proof that the individual has been a resident of this state for two or more years;

(d) Must ensure that the psilocybin service center is located in an area that is not:

(A) Within the limits of an incorporated city or town; and

(B) Zoned exclusively for residential use;

(e) Except as provided in section 27 of this 2020 Act, must ensure that the psilocybin service center is not located within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(f) Must meet the requirements of any rule adopted by the authority under subsection (3) of this section.

(3) The authority shall adopt rules that:

(a) Require a psilocybin service center operator to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for psilocybin service center operators;

(c) Require psilocybin products sold by a psilocybin service center operator to be tested in accordance with section 96 of this 2020 Act; and

(d) Require a psilocybin service center operator to meet any public health and safety standards and industry best practices established by the authority by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under sections 3 to 129 of this 2020 Act, the cost of administering sections 3 to 129 of this 2020 Act; and

(b) Shall be deposited in the Psilocybin Control and Regulation Fund established under section 69 of this 2020 Act.

**SECTION 27. Proximity of psilocybin service center to school.**

Notwithstanding subsection 2(e) of section 26 of this 2020 Act, a psilocybin service center may be located within 1,000 feet of a school if:

(1) The psilocybin service center is not located within 500 feet of:

(a) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(b) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(2) The Oregon Health Authority determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the psilocybin service center.

**SECTION 28. Establishment of school after issuance of license.**

If a school described in subsection 2(e) of section 26 of this 2020 Act that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under section 26 of this 2020 Act, the psilocybin service center operator located at that premises may remain at that location unless the Oregon Health Authority revokes the license of the psilocybin service center operator under section 64 of this 2020 Act.

**SECTION 29. Requirement to verify person's age; rules.**

The Oregon Health Authority may adopt rules establishing the circumstances under which the authority may require a psilocybin service center operator that holds a license issued under section 26 of this 2020 Act to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the psilocybin service center operator does not sell psilocybin products to a person under 21 years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age.

**LICENSE TO FACILITATE PSILOCYBIN SERVICES**

**SECTION 30. Facilitator license; fees; rules.**

(1) The facilitation of psilocybin services is subject to regulation by the Oregon Health Authority.

(2) A psilocybin service facilitator must have a facilitator license issued by the authority. To hold a facilitator license issued under this section, a psilocybin service facilitator:

(a) Must apply for a license in the manner described in section 14 of this 2020 Act;

(b) Must provide proof that the applicant is 21 years of age or older;

(c) Must, until January 1, 2025, provide proof that the applicant has been a resident of this state for two or more years;

(d) Must have a high school diploma or equivalent education;

(e) Must submit evidence of completion of education and training prescribed and approved by the authority;

(f) Must have passed an examination approved, administered or recognized by the authority; and

(g) Must meet the requirements of any rule adopted by the authority under subsection (4) of this section.

(3) The authority may not require a psilocybin service facilitator to have a degree from a university, college, post-secondary institution, or other institution of higher education.

(4) The authority shall adopt rules that:

(a) Require a psilocybin service facilitator to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for psilocybin service facilitators; and

(c) Require a psilocybin service facilitator to meet any public health and safety standards and industry best practices established by the authority by rule.

(5) Fees adopted under subsection (4)(b) of this section:

(a) May not exceed, together with other fees collected under sections 3 to 129 of this 2020 Act, the cost of administering sections 3 to 129 of this 2020 Act; and

(b) Shall be deposited in the Psilocybin Control and Regulation Fund established under section 69 of this 2020 Act.

(6) A psilocybin service facilitator may be, but need not be, an employee, manager, director, officer, partner, member, shareholder, or direct or indirect owner of one or more psilocybin service center operators.

(7) A license issued to a psilocybin service facilitator under this section is not limited to any one or more premises.

#### **SECTION 31. Examinations; rules.**

The Oregon Health Authority shall offer an examination for applicants for licenses to facilitate psilocybin services at least twice a year. An applicant who fails any part of the examination may retake the failed section in accordance with rules adopted by the authority.

#### **SECTION 32. Requirement to verify person's age; rules.**

The Oregon Health Authority may adopt rules establishing the circumstances under which the authority may require a psilocybin service facilitator that holds a license issued under section 30 of this 2020 Act to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the psilocybin service facilitator does not provide psilocybin services to a person under 21 years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age.

### **PSILOCYBIN SERVICES**

#### **SECTION 33. Psilocybin services.**

The Oregon Health Authority shall adopt by rule the requirements, specifications and guidelines for:

- (1) Providing psilocybin services to a client;
- (2) Holding and verifying the completion of a preparation session;
- (3) Having a client complete, sign, and deliver a client information form to a psilocybin service center operator and a psilocybin service facilitator;
- (4) Holding and verifying the completion of an administration session; and
- (5) Holding and verifying the completion of an integration session.

#### **SECTION 34. Preparation session.**

- (1) Before a client participates in an administration session, the client must attend a preparation session with a psilocybin service facilitator.
- (2) A preparation session may be, but need not be, held at a psilocybin service center.
- (3) If a preparation session is completed in accordance with all applicable requirements, specifications and guidelines, as determined by the Oregon Health Authority, the psilocybin service facilitator must certify, in a form and manner prescribed by the authority, that the client completed the preparation session.

#### **SECTION 35. Client information form.**

- (1) Before a client participates in an administration session:
  - (a) The client must complete and sign a client information form, in a form and manner prescribed by the Oregon Health Authority; and
  - (b) A copy of the completed and signed client information form must be delivered to:
    - (A) The psilocybin service center operator that operates the psilocybin service center at which the administration session is to be held; and
    - (B) The psilocybin service facilitator that will supervise the administration session.
- (2) The client information form:
  - (a) Will solicit from the client such information as may be necessary:
    - (A) To enable a psilocybin service center operator and a psilocybin service facilitator to determine whether the client should participate in an administration session, including information that may identify risk factors and contraindications; and
    - (B) If so, to assist the psilocybin service center operator and the psilocybin service facilitator in meeting any public health and safety standards and industry best practices during the administration session; and
  - (b) Will contain such health and safety warnings and other disclosures to the client as the authority may prescribe.

#### **SECTION 36. Administration session.**

- (1) After a client completes a preparation session and completes and signs a client information form, the client may participate in an administration session.
- (2) An administration session must be held at a psilocybin service center.

(3) If an administration session is completed in accordance with all applicable requirements, specifications and guidelines, as determined by the Oregon Health Authority, the psilocybin service facilitator must certify, in a form and manner prescribed by the authority, that the client completed the administration session.

#### **SECTION 37. Integration session.**

(1) After a client completes an administration session, the psilocybin service facilitator who supervised the administration session must offer the client an opportunity to participate in an integration session. The client may, but need not, participate in an integration session.

(2) An integration session may be, but need not be, held at a psilocybin service center.

(3) If an integration session is completed in accordance with all applicable requirements, specifications and guidelines, as determined by the Oregon Health Authority, the psilocybin service facilitator must certify, in a form and manner prescribed by the authority, that the client completed the integration session.

#### **SECTION 38. Protections on reliance on client information form.**

(1) If a client information form is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of a psilocybin product to a client, the licensee or licensee representative is not guilty of any offense prohibiting a person from selling or serving a psilocybin product to a client unless it is demonstrated that a reasonable person would have determined that the responses provided by the client on the client information form were incorrect or altered.

(2) A licensee or licensee representative shall be entitled to rely upon all statements, declarations, and representations made by a client in a client information form unless it is demonstrated that:

(a) A reasonable person would have determined that one or more of the statements, declarations, and representations made by the client in the client information form were incorrect or altered; or

(b) The licensee or licensee representative violated a provision of sections 3 to 129 of this 2020 Act or a rule adopted under sections 3 to 129 of this 2020 Act relative to the client information form.

(3) Except as provided in subsection (2) of this section, no licensee or licensee representative shall incur legal liability by virtue of any untrue statements, declarations, or representations so relied upon in good faith by the licensee or licensee representative.

**SECTION 39. Protections on refusal to provide psilocybin services to a client.**

(1) Subject to other applicable law, a licensee or licensee representative may refuse to provide psilocybin services to a potential client for any or no reason.

(2)(a) Except as provided in paragraph (b) of this subsection, and subject to other applicable law, a licensee or licensee representative may cease providing psilocybin services to a client for any or no reason.

(b) A psilocybin service center operator and a psilocybin service facilitator may not cease providing psilocybin services to a client during an administration session after the client has consumed a psilocybin product, except as authorized by the Oregon Health Authority by rule, or as necessary in an emergency.

**POWERS AND DUTIES OF OREGON HEALTH AUTHORITY WITH RESPECT TO  
LICENSEES**

**SECTION 40. Powers and duties relating to psilocybin service facilitators.**

The Oregon Health Authority shall:

(1) Determine the qualifications, training, education and fitness of applicants for licenses to facilitate psilocybin services, giving particular consideration to:

(a) Facilitation skills that are affirming, non-judgmental, and non-directive;

(b) Support skills for clients during an administration session, including specialized skills for:

(A) Client safety; and

(B) Clients who may have a mental health condition;

(c) The environment in which psilocybin services should occur; and

(d) Social and cultural considerations.

(2) Formulate a code of professional conduct for psilocybin service facilitators, giving particular consideration to a code of ethics;

(3) Establish standards of practice and professional responsibility for individuals licensed by the authority to facilitate psilocybin services;

(4) Select licensing examinations for licenses to facilitate psilocybin services;

(5) Provide for waivers of examinations as appropriate; and

(6) Appoint representatives to conduct or supervise examinations of applicants for licenses to facilitate psilocybin services.

**SECTION 41. Minimum standards of education and training for psilocybin service facilitators; rules.**

(1) The Oregon Health Authority shall adopt by rule minimum standards of education and training requirements for psilocybin service facilitators.

(2) The authority shall approve courses for psilocybin service facilitators. To obtain approval of a course, the provider of a course must submit an outline of instruction to the office and the Department of Education. The outline must include the approved courses, total hours of instruction, hours of lectures in theory and the hours of instruction in application of practical skills.

**SECTION 42. Authority to inspect books and premises; notice.**

(1) The Oregon Health Authority may, after 72 hours' notice, make an examination of the books of a licensee for the purpose of determining compliance with sections 3 to 129 of this 2020 Act and rules adopted under sections 3 to 129 of this 2020 Act.

(2) The authority may at any time make an examination of a premises for which a license has been issued under sections 3 to 129 of this 2020 Act for the purpose of determining compliance with sections 3 to 129 of this 2020 Act and rules adopted under sections 3 to 129 of this 2020 Act.

(3) The authority may not require the books of a licensee to be maintained on a premises of the licensee.

**SECTION 43. Authority to require segregation of premises.**

If a licensee holds more than one license issued under sections 3 to 129 of this 2020 Act for the same premises, the Oregon Health Authority may require the premises to be segregated into separate areas for conducting the activities permitted under each license as is necessary to protect the public health and safety.

**SECTION 44. Authority to require general liability insurance.**

As is necessary to protect the public health and safety, the Oregon Health Authority may require a licensee to maintain general liability insurance in an amount that the authority determines is reasonably affordable and available for the purpose of protecting the licensee against damages



resulting from a cause of action related to activities undertaken pursuant to the license held by the licensee.

**SECTION 45. Use of Oregon Liquor Control Commission tracking system for psilocybin products; exemptions; rules.**

(1) The Oregon Health Authority shall:

(a) Develop and maintain a system for tracking the transfer of psilocybin products between premises for which licenses have been issued under sections 3 to 129 of this 2020 Act; or

(b) Enter into an agreement with the Oregon Liquor Control Commission under which the commission shall permit the authority to use the system developed and maintained under ORS 475B.177 to track the transfer of psilocybin products between premises for which licenses have been issued under sections 3 to 129 of this 2020 Act.

(2) The purposes of the system include, but are not limited to:

(a) Preventing the diversion of psilocybin products to other states;

(b) Preventing persons from substituting or tampering with psilocybin products;

(c) Ensuring an accurate accounting of the production, processing and sale of psilocybin products;

(d) Ensuring that laboratory testing results are accurately reported; and

(e) Ensuring compliance with sections 3 to 129 of this 2020 Act, rules adopted under sections 3 to 129 of this 2020 Act and any other law of this state that charges the authority or commission with a duty, function or power related to psilocybin.

(3) The system must be capable of tracking, at a minimum:

(a) The manufacturing of psilocybin products;

(b) The sale of psilocybin products by a psilocybin service center operator to a client;

(c) The sale and purchase of psilocybin products between licensees, as permitted by sections 3 to 129 of this 2020 Act;

(d) The transfer of psilocybin products between premises for which licenses have been issued under sections 3 to 129 of this 2020 Act; and

(e) Any other information that the authority determines is reasonably necessary to accomplish the duties, functions and powers of the authority under sections 3 to 129 of this 2020 Act.

(4) Notwithstanding section 126 of this 2020 Act, before making any other distribution from the Oregon Psilocybin Account established under section 126 of this 2020 Act, the Department of Revenue shall first distribute moneys quarterly from the account to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475B.296 for purposes of paying any costs incurred by the commission under subsection (1)(b) of this section. For purposes of estimating the amount of moneys necessary to pay any costs incurred under this section, the commission shall establish a formulary based on expected costs for each licensee that is tracked under this section. The commission shall provide to the Department of Revenue and the Legislative Fiscal Officer before each quarter the estimated amount of moneys necessary to pay costs expected to be incurred under this section and the formulary.

**SECTION 46. Authority to prevent diversion of psilocybin products.**

Except as otherwise provided by law, the Oregon Health Authority has any power, and may perform any function, necessary for the authority to prevent the diversion of psilocybin products from licensees to a source that is not operating legally under the laws of this state.

**SECTION 47. Authority to discipline for unregulated commerce.**

In addition to any other disciplinary action available to the Oregon Health Authority under sections 3 to 129 of this 2020 Act, the authority may immediately restrict, suspend or refuse to renew a license issued under sections 3 to 129 of this 2020 Act if circumstances create probable cause for the authority to conclude that a licensee has purchased or received a psilocybin product from an unlicensed source or that a licensee has sold, stored or transferred a psilocybin product in a manner that is not permitted by the licensee's license.

**SECTION 48. Authority to require financial disclosure from licensee.**

(1) The Oregon Health Authority may require a licensee or applicant for a license under sections 3 to 129 of this 2020 Act to submit, in a form and manner prescribed by the authority, to the authority a sworn statement showing:

- (a) The name and address of each person that has a financial interest in the business operating or to be operated under the license; and
- (b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.

(2) The authority may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under sections 3 to 129 of this 2020 Act if the authority determines that a person that has

a financial interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the authority to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license.

**SECTION 49. Authority to investigate, discipline licensees.**

(1) Notwithstanding the lapse, suspension or revocation of a license issued under sections 3 to 129 of this 2020 Act, the Oregon Health Authority may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or

(b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under sections 3 to 129 of this 2020 Act, the applicant for licensure may not withdraw the applicant's application.

**SECTION 50. Authority to investigate, discipline permit holder.**

(1) Notwithstanding the lapse, suspension or revocation of a permit issued under section 66 of this 2020 Act, the Oregon Health Authority may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the permit; or

(b) Revise or render void an order suspending or revoking the permit.

(2) In cases involving the proposed denial of a permit issued under section 66 of this 2020 Act, the applicant may not withdraw the applicant's application.

**SECTION 51. Powers related to decedents and insolvent or bankrupt persons.**

The Oregon Health Authority may, by rule or order, provide for the manner and conditions under which:

(1) Psilocybin products left by a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed.

(2) The business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(3) A secured party, as defined in ORS 79.0102, may continue to operate at a premises for which a license has been issued under sections 3 to 129 of this 2020 Act for a reasonable period after default on the indebtedness by the debtor.

## CONDUCT OF LICENSEES

### **SECTION 52. Prohibition against manufacturing psilocybin products outdoors.**

A psilocybin product manufacturer that holds a license under section 23 of this 2020 Act may not manufacture psilocybin products outdoors.

### **SECTION 53. Restrictions on delivery or receipt; waiver by authority.**

(1) A psilocybin product manufacturer that holds a license under section 23 of this 2020 Act:

(a) May deliver psilocybin products only to or on a premises for which a license has been issued under section 23 or section 26 of this 2020 Act; and

(b) May receive psilocybin products only from a psilocybin product manufacturer that holds a license under section 23 of this 2020 Act.

(2) A psilocybin service center operator that holds a license under section 26 of this 2020 Act:

(a) May deliver psilocybin products only to or on a premises for which a license has been issued under section 26 of this 2020 Act.; and

(b) May receive psilocybin products only from a psilocybin product manufacturer that holds a license under section 23 of this 2020 Act or a psilocybin service center operator that holds a license under section 26 of this 2020 Act.

(3) The sale of psilocybin products to a client by a psilocybin service center operator that holds a license issued under section 26 of this 2020 Act must be restricted to the premises for which the license has been issued.

(4) The Oregon Health Authority may by order waive the requirements of subsections (1) and (2) of this section to ensure compliance with sections 3 to 129 of this 2020 Act or a rule adopted under sections 3 to 129 of this 2020 Act. An order issued under this subsection does not constitute a waiver of any other requirement of sections 3 to 129 of this 2020 Act or any other rule adopted under sections 3 to 129 of this 2020 Act.

**SECTION 54. Prohibition against selling or delivering psilocybin products to persons under 21 years of age.**

A licensee or licensee representative may not sell or deliver a psilocybin product to a person under 21 years of age.

**SECTION 55. Identification requirement; rules.**

(1) Subject to subsection (2) of this section, a licensee or licensee representative, before selling or providing a psilocybin product to another person, must require the person to produce one of the following pieces of identification:

- (a) The person's passport.
- (b) The person's driver license, issued by the State of Oregon or another state of the United States.
- (c) An identification card issued under ORS 807.400.
- (d) A United States military identification card.
- (e) An identification card issued by a federally recognized Indian tribe.
- (f) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(2) The Oregon Health Authority may adopt rules exempting a licensee or licensee representative from this section.

(3) A client may not be required to procure for the purpose of acquiring or purchasing a psilocybin product a piece of identification other than a piece of identification described in subsection (1) of this section.

**SECTION 56. Confidentiality of information and communications by clients; exceptions.**

A psilocybin service center operator, a psilocybin service facilitator, or any employee of a psilocybin service center operator or psilocybin service facilitator may not disclose any information that may be used to identify a client, or any communication made by a client during the course of providing psilocybin services or selling psilocybin products to the client, except:

- (1) When the client or a person authorized to act on behalf of the client gives consent to the disclosure;
- (2) When the client initiates legal action or makes a complaint against the psilocybin service center operator, the psilocybin service facilitator, or the employee;

- (3) When the communication reveals the intent to commit a crime harmful to the client or others;
- (4) When the communication reveals that a minor may have been a victim of a crime or physical, sexual or emotional abuse or neglect; or
- (5) When responding to an inquiry by the Oregon Health Authority made during the course of an investigation into the conduct of the psilocybin service center operator, the psilocybin service facilitator, or the employee under sections 3 to 129 of this 2020 Act.

**SECTION 57. Prohibition against purchasing, possessing, and consuming a psilocybin product outside a psilocybin service center.**

A client may purchase, possess, and consume a psilocybin product:

- (1) Only at a psilocybin service center; and
- (2) Only under the supervision of a psilocybin service facilitator.

**SECTION 58. Prohibition against psilocybin service facilitator consuming a psilocybin product during an administration session.**

A psilocybin service facilitator may not consume a psilocybin product during an administration session that the psilocybin service facilitator is supervising.

**SECTION 59. Prohibition against employing persons under 21 years of age.**

- (1) A licensee may not employ a person under 21 years of age at a premises for which a license has been issued under sections 3 to 129 of this 2020 Act.
- (2) During an inspection of a premises for which a license has been issued under sections 3 to 129 of this 2020 Act, the Oregon Health Authority may require proof that a person performing work at the premises is 21 years of age or older. If the person does not provide the authority with acceptable proof of age upon request, the authority may require the person to immediately cease any activity and leave the premises until the authority receives acceptable proof of age. This subsection does not apply to a person temporarily at the premises to make a service, maintenance or repair call or for other purposes independent of the premises operations.
- (3) If a person performing work has not provided proof of age requested by the authority under subsection (2) of this section, the authority may request that the licensee provide proof that the person is 21 years of age or older. Failure of the licensee 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 premises for which a license has been issued under sections 3 to 129 of this 2020 Act in violation of the minimum age requirement.

**SECTION 60. Prohibition against obfuscating mark or label or using mark or label to deceive.**

(1) A licensee may not use or allow the use of a mark or label on the container of a psilocybin product that is kept for sale if the mark or label does not precisely and clearly indicate the nature of the container's contents or if the mark or label in any way might deceive a person about the nature, composition, quantity, age or quality of the container's contents.

(2) The Oregon Health Authority may prohibit a licensee from selling any psilocybin product that in the authority's judgment is deceptively labeled or contains injurious or adulterated ingredients.

**SECTION 61. Requirement that psilocybin products comply with minimum standards.**

(1) A psilocybin product may not be sold or offered for sale within this state unless the psilocybin product complies with the minimum standards prescribed by the statutory laws of this state.

(2) The Oregon Health Authority may prohibit the sale of a psilocybin product by a psilocybin service center operator for a reasonable period of time for the purpose of determining whether the psilocybin product complies with the minimum standards prescribed by the statutory laws of this state.

**SECTION 62. Other prohibitions.**

(1) A person may not make false representations or statements to the Oregon Health Authority in order to induce or prevent action by the authority.

(2) A licensee may not maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious psilocybin products.

(3) A licensee may not misrepresent to a person or to the public any psilocybin products.

**SECTION 63. Purpose of license issued under sections 3 to 129 of this 2020 Act.**

A license issued under sections 3 to 129 of this 2020 Act serves the purpose of exempting the person that holds the license from the criminal laws of this state for possession, delivery or

manufacture of psilocybin products, provided that the person complies with all state laws and rules applicable to licensees.

## **DISCIPLINING LICENSEES**

### **SECTION 64. Grounds for revocation, suspension or restriction of license.**

The Oregon Health Authority may revoke, suspend or restrict a license issued under sections 3 to 129 of this 2020 Act or require a licensee or licensee representative to undergo training if the authority finds or has reasonable ground to believe any of the following to be true:

(1) That the licensee or licensee representative:

(a) Has violated a provision of sections 3 to 129 of this 2020 Act or a rule adopted under ORS sections 3 to 129 of this 2020 Act, including any code of professional conduct or code of ethics.

(b) Has made any false representation or statement to the authority in order to induce or prevent action by the authority.

(c) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

(d) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana, psilocybin products or controlled substances to excess.

(e) Has misrepresented to a person or the public any psilocybin products sold by the licensee or licensee representative.

(f) Since the issuance of the license, has been convicted of a felony, of violating any of the psilocybin products laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the premises for which the license has been issued.

(2) That there is any other reason that, in the opinion of the authority, based on public convenience or necessity, warrants revoking, suspending or restricting the license.

## **EMPLOYEES AND OTHER WORKERS**

### **SECTION 65. Permit required to perform work for or on behalf of a licensee.**



(1) An individual who performs work for or on behalf of a licensee must have a valid permit issued by the Oregon Health Authority under section 66 of this 2020 Act if the individual participates in:

- (a) The provision of psilocybin services at the premises for which the license has been issued;
- (b) The possession, manufacturing, securing or selling of psilocybin products at the premises for which the license has been issued;
- (c) The recording of the possession, manufacturing, securing or selling of psilocybin products at the premises for which the license has been issued; or
- (d) The verification of any document described in section 55 of this 2020 Act.

(2) A licensee must verify that an individual has a valid permit issued under section 66 of this 2020 Act before allowing the individual to perform any work described in subsection (1) of this section at the premises for which the license has been issued.

**SECTION 66. Issuing, renewing permits; fees; rules.**

(1) The Oregon Health Authority shall issue permits to qualified applicants to perform work described in section 65 of this 2020 Act. The authority shall adopt rules establishing:

- (a) The qualifications for performing work described in section 65 of this 2020 Act;
- (b) The term of a permit issued under this section;
- (c) Procedures for applying for and renewing a permit issued under this section; and
- (d) Reasonable application, issuance and renewal fees for a permit issued under this section.

(2)(a) The authority may require an individual applying for a permit under this section to successfully complete a course, made available by or through the authority, through which the individual receives training on:

- (A) Checking identification;
- (B) Detecting intoxication;
- (C) Handling psilocybin products;
- (D) If applicable, the manufacturing of psilocybin products;
- (E) The content of sections 3 to 129 of this 2020 Act and rules adopted under sections 3 to 129 of this 2020 Act; or
- (F) Any matter deemed necessary by the authority to protect the public health and safety.

- (b) The authority or other provider of a course may charge a reasonable fee for the course.
- (c) The authority may not require an individual to successfully complete a course more than once, except that:
  - (A) As part of a final order suspending a permit issued under this section, the authority may require a permit holder to successfully complete the course as a condition of lifting the suspension; and
  - (B) As part of a final order revoking a permit issued under this section, the authority shall require an individual to successfully complete the course prior to applying for a new permit.
- (3) The authority shall conduct a criminal records check under ORS 181A.195 on an individual applying for a permit under this section.
- (4) Subject to the applicable provisions of ORS chapter 183, the authority may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit:
  - (a) Is convicted of a felony or is convicted of an offense under sections 3 to 129 of this 2020 Act, except that the authority may not consider a conviction for an offense under sections 3 to 129 of this 2020 Act if the date of the conviction is two or more years before the date of the application or renewal;
  - (b) Violates any provision of sections 3 to 129 of this 2020 Act or any rule adopted under sections 3 to 129 of this 2020 Act; or
  - (c) Makes a false statement to the authority.
- (5) A permit issued under this section is a personal privilege and permits work described under section 65 of this 2020 Act only for the individual who holds the permit.

**SECTION 67. Authority to require fingerprints of individuals listed on application.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under section 66 of this 2020 Act.

**SECTION 68. Whistleblower protection for employees.**

(1) It is an unlawful employment practice for a licensee to discharge, demote, suspend or in any manner discriminate or retaliate against an employee of the licensee with regard to promotion, compensation or other terms, conditions or privileges of employment on the basis that the employee has in good faith reported information to the Oregon Health Authority that the

employee believes is evidence of a violation of sections 3 to 129 of this 2020 Act or a rule adopted under sections 3 to 129 of this 2020 Act.

(2) This section is subject to enforcement under ORS chapter 659A.

## **PSILOCYBIN CONTROL AND REGULATION FUND**

### **SECTION 69. Psilocybin Control and Regulation Fund.**

The Psilocybin Control and Regulation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Psilocybin Control and Regulation Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority to administer and enforce sections 3 to 129 of this 2020 Act.

## **PROHIBITED CONDUCT**

### **SECTION 70. Prohibition against person under 21 years of age entering premises; penalty.**

(1) Except as authorized by the Oregon Health Authority by rule, or as necessary in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

(2) A person who violates subsection (1) of this section commits a Class B violation.

(3) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the authority or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of psilocybin products to persons who are under 21 years of age.

(4) 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 psilocybin products to persons who are under 21 years of age.

(5)(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 because that

person consumed a psilocybin product 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 psilocybin product 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.

**SECTION 71. Prohibition against producing identification that falsely indicates age; protections on reliance on identification.**

(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 psilocybin product 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 psilocybin product 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 psilocybin product was sold or served.

**SECTION 72. Prohibition regarding person who is visibly intoxicated; penalty.**

(1) A person may not sell, give or otherwise make available a psilocybin product to a person who is visibly intoxicated.

(2) Violation of this section is a Class A misdemeanor.

**SECTION 73. Prohibition against giving psilocybin product as prize; penalty.**

(1) A psilocybin product 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 violation.

## CIVIL ENFORCEMENT OF SECTIONS 3 TO 129 OF THIS 2020 ACT

### SECTION 74. Authority to issue subpoenas.

For purposes of sections 3 to 129 of this 2020 Act, the provisions of ORS 183.440 apply to subpoenas issued by the Oregon Health Authority and to subpoenas issued by an authorized agent of the authority.

### SECTION 75. Civil penalty for violating sections 3 to 129 of this 2020 Act.

In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of sections 3 to 129 of this 2020 Act or a rule adopted under sections 3 to 129 of this 2020 Act a civil penalty that does not exceed \$5,000 for each violation. The authority shall impose civil penalties under this section in the manner provided by ORS 183.745. Moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under section 69 of this 2020 Act.

## CRIMINAL ENFORCEMENT OF SECTIONS 3 TO 129 OF THIS 2020 ACT

### SECTION 76. Authority of law enforcement to enforce sections 3 to 129 of this 2020 Act.

The law enforcement officers of this state may enforce sections 3 to 129 of this 2020 Act and assist the Oregon Health Authority in detecting violations of sections 3 to 129 of this 2020 Act and apprehending offenders. A law enforcement officer who has notice, knowledge or reasonable ground of suspicion of a violation of sections 3 to 129 of this 2020 Act shall immediately notify the district attorney who has jurisdiction over the violation and furnish the district attorney who has jurisdiction over the violation with names and addresses of any witnesses to the violation or other information related to the violation.

### SECTION 77. Duty to notify Oregon Health Authority of conviction of licensee.

The county courts, district attorneys and municipal authorities, immediately upon the conviction of a licensee of a violation of sections 3 to 129 of this 2020 Act, or of a violation of any other law of this state or ordinance of a city or county located in this state an element of which is the possession, delivery or manufacture of a psilocybin product, shall notify the Oregon Health Authority of the conviction.

**SECTION 78. Penalty for violating sections 3 to 129 of this 2020 Act.**

Subject to ORS 153.022, violation of a rule adopted under subsection (2)(c) of section 8 of this 2020 Act is a Class C violation.

**REGULATION BY CITIES AND COUNTIES OF PSILOCYBIN PRODUCTS**

**SECTION 79. Preemption of municipal charter amendments and local ordinances.**

The provisions of sections 3 to 129 of this 2020 Act are designed to operate uniformly throughout the state and are paramount and superior to and fully replace and supersede any municipal charter amendment or local ordinance inconsistent with the provisions of sections 3 to 129 of this 2020 Act. Amendments and ordinances that are inconsistent with the provisions of sections 3 to 129 of this 2020 Act are repealed.

**SECTION 80. No local licenses.**

The authority to require a license for the manufacturing or sale of psilocybin products in this state, or for the provision of psilocybin services in this state, is vested solely in the Legislative Assembly.

**SECTION 81. Local time, place and manner regulations.**

(1) For purposes of this section, “reasonable regulations” includes:

- (a) Reasonable conditions on the manner in which a psilocybin product manufacturer that holds a license issued under section 23 of this 2020 Act may manufacture psilocybin products;
- (b) Reasonable conditions on the manner in which a psilocybin service center operator that holds a license issued under section 26 of this 2020 Act may provide psilocybin services;
- (c) Reasonable limitations on the hours during which a premises for which a license has been issued under sections 3 to 129 of this 2020 Act may operate;
- (d) Reasonable requirements related to the public’s access to a premises for which a license has been issued under sections 3 to 129 of this 2020 Act; and
- (e) Reasonable limitations on where a premises for which a license may be issued under sections 3 to 129 of this 2020 Act may be located.

(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under sections 3 to 129 of this 2020 Act if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 26 of this 2020 Act from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 26 of this 2020 Act.

**SECTION 82. Local tax or fee; referral to electors for approval.**

(1)(a) The authority to impose a tax or fee on the manufacturing or sale of psilocybin products in this state, or on the provision of psilocybin services in this state, is vested solely in the Legislative Assembly.

(b) A county, city or other municipal corporation or district may not adopt or enact ordinances imposing a tax or fee on the manufacturing or sale of psilocybin products in this state or on the provision of psilocybin services in this state.

**SECTION 83. Repeal of city, county ordinance that prohibits certain establishments.**

(1) The governing body of a city or county may repeal an ordinance that prohibits the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

(a) Psilocybin product manufacturers that hold a license issued under section 23 of this 2020 Act;

(b) Psilocybin service center operators that hold a license issued under section 26 of this 2020 Act;  
or

(c) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county repeals an ordinance under this section, the governing body must provide the text of the ordinance to the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a premises for which a license has been issued under sections 3 to 129 of this 2020 Act.

**POWERS AND DUTIES OF STATE AGENCIES AND OFFICERS AND GOVERNOR**

**SECTION 84. Duty of Oregon Liquor Control Commission to assist.**

The Oregon Liquor Control Commission shall assist and cooperate with the Oregon Health Authority and the State Department of Agriculture to the extent necessary for the authority and the department to carry out the duties of the authority and the department under sections 3 to 129 of this 2020 Act.

**SECTION 85. Duty of State Department of Agriculture to assist.**

The State Department of Agriculture shall assist and cooperate with the Oregon Health Authority to the extent necessary for the authority to carry out the duties of the authority under sections 3 to 129 of this 2020 Act.

**SECTION 86. Authority of State Department of Agriculture.**

The State Department of Agriculture may possess, test and dispose of psilocybin products.

**SECTION 87. Prohibition against refusing to perform duties on basis that certain conduct is prohibited by federal law.**

(1) The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor Control Commission may not refuse to perform any duty under sections 3 to 129 of this 2020 Act on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law.

(2) The authority may not revoke or refuse to issue or renew a license or permit under sections 3 to 129 of this 2020 Act on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law.

**SECTION 88. Immunity for state agencies, officers and employees in performance of duties.**

A person may not sue the Oregon Health Authority, the State Department of Agriculture or the Oregon Liquor Control Commission or a member of the commission, or any employee of the authority, department or commission, for performing or omitting to perform any duty, function or power of the authority, department or commission set forth in sections 3 to 129 of this 2020 Act or in any other law of this state requiring the authority, department or commission to perform a duty, function or power related to psilocybin products.

**SECTION 89. Authority to purchase, possess, seize or dispose of psilocybin products.**



Subject to any applicable provision of ORS chapter 131A or 183, any state officer, board, commission, corporation, institution, department or other state body, and any local officer, board, commission, institution, department or other local government body, that is authorized by the statutory laws of this state to perform a duty, function or power with respect to a psilocybin product, may purchase, possess, seize or dispose of the psilocybin product as the state officer, board, commission, corporation, institution, department or other state body, or the local officer, board, commission, institution, department or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law.

**SECTION 90. Authority of Governor to suspend license or permit without notice.**

In case of invasion, disaster, insurrection or riot, or imminent danger of invasion, disaster, insurrection or riot, the Governor may, for the duration of the invasion, disaster, insurrection or riot, or imminent danger, immediately and without notice suspend, in the area involved, any license or permit issued under sections 3 to 129 of this 2020 Act.

**OTHER PROVISIONS**

**SECTION 91. Psilocybin-producing fungi as crop; exceptions to permitted uses.**

(1) Psilocybin-producing fungi is:

- (a) A crop for the purposes of "farm use" as defined in ORS 215.203;
- (b) A crop for purposes of a "farm" and "farming practice," both as defined in ORS 30.930;
- (c) A product of farm use as described in ORS 308A.062; and
- (d) The product of an agricultural activity for purposes of ORS 568.909.

(2) Notwithstanding ORS chapters 195, 196, 197, 215 and 227, the following are not permitted uses on land designated for exclusive farm use:

- (a) A new dwelling used in conjunction with a psilocybin-producing fungi crop;
- (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a psilocybin-producing fungi crop; and
- (c) Subject to subsection (3) of this section, a commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a psilocybin-producing fungi crop.

- (3) The operation of a psilocybin service center may be carried on in conjunction with a psilocybin-producing fungi crop.
- (4) A county may allow the manufacture of psilocybin products as a farm use on land zoned for farm or forest use in the same manner as the manufacture of psilocybin products is allowed in exclusive farm use zones under this section and ORS 215.213, 215.283 and 475B.063.
- (5) This section applies to psilocybin product manufacturers that hold a license under section 23 of this 2020 Act.

**SECTION 92. Regulation of psilocybin products as food or other commodity subject to regulation by State Department of Agriculture.**

- (1) Notwithstanding the authority granted to the State Department of Agriculture under ORS chapters 571, 618 and 633 and ORS 632.275 to 632.290, 632.450 to 632.490, 632.516 to 632.625, 632.705 to 632.815, 632.835 to 632.850 and 632.900 to 632.985, the department may not exercise authority over psilocybin products or a licensee, except that ORS 618.121 to 618.161, 618.991, 618.995, 633.311 to 633.479, 633.992 and 633.994 apply to psilocybin products or to a licensee.
- (2) In exercising its authority under ORS chapter 616, the department may not:
  - (a) Establish standards for psilocybin products as a food additive, as defined in ORS 616.205;
  - (b) Consider psilocybin products to be an adulterant, unless the concentration of a psilocybin product exceeds acceptable levels established by the Oregon Health Authority by rule; or
  - (c) Apply ORS 616.256, 616.265, 616.270 or 616.275 to psilocybin products or enforce ORS 616.256, 616.265, 616.270 or 616.275 with respect to psilocybin products.

**SECTION 93. Enforceability of contracts.**

A contract is not unenforceable on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law.

**SECTION 94. Oregon Health Authority hotline for verification of license.**

The Oregon Health Authority shall maintain a telephone hotline for the following persons to inquire if an address is the location of a premises for which a license has been issued under sections 3 to 129 of this 2020 Act or is the location of a premises for which an application for licensure has been submitted under section 14 of this 2020 Act:

- (1) A person designated by a city or a county;

- (2) A person designated by the Water Resources Department; and
- (3) A person designated by the watermaster of any water district.

**SECTION 95. Certain information related to licensure exempt from disclosure.**

(1) Subject to subsection (2) of this section, information is exempt from public disclosure under ORS 192.311 to 192.478 if the information is:

- (a) Personally identifiable information, as defined in ORS 432.005;
- (b) The address of a premises for which a license has been issued or for which an applicant has proposed licensure under section 23, 26 or 97 of this 2020 Act;
- (c) Related to the security plan or the operational plan for a premises for which a license has been issued or for which an applicant has proposed licensure under sections 23, 26 or 97 of this 2020 Act; or
- (d) Related to any record that the Oregon Health Authority determines contains proprietary information of a licensee.

(2) The exemption from public disclosure as provided by this section does not apply to:

- (a) The name of an individual listed on an application, if the individual is a direct owner of the business operating or to be operated under the license; or
- (b) A request for information if the request is made by a law enforcement agency.

(3) For purposes of subsection (2)(a) of this section, an individual is not a direct owner of the business operating or to be operated under the license if:

- (a) The direct owner of the business operating or to be operated under the license is a legal entity; and
- (b) The individual is merely a general partner, limited partner, member, shareholder, or other direct or indirect owner of the legal entity.

**TESTING OF PSILOCYBIN PRODUCTS**

**SECTION 96. Testing standards and processes; rules.**

(1) As is necessary to protect the public health and safety, and in consultation with the Oregon Liquor Control Commission and the State Department of Agriculture, the Oregon Health Authority shall adopt rules:

- (a) Establishing standards for testing psilocybin products.
- (b) Identifying appropriate tests for psilocybin products, depending on the type of psilocybin product and the manner in which the psilocybin product was manufactured, that are necessary to protect the public health and safety, which may include, but not be limited to, tests for:
  - (A) Microbiological contaminants;
  - (B) Pesticides;
  - (C) Other contaminants;
  - (D) Solvents or residual solvents; and
  - (E) Psilocybin concentration.
- (c) Establishing procedures for determining batch sizes and for sampling psilocybin products.
- (d) Establishing different minimum standards for different varieties of psilocybin products.
- (2) In addition to the testing requirements established under subsection (1) of this section, the authority may require psilocybin products to be tested in accordance with any applicable law of this state, or any applicable rule adopted under a law of this state, related to the production and processing of food products or commodities.
- (3) In adopting rules under sections 3 to 129 of this 2020 Act, the authority may require a psilocybin product manufacturer that holds a license under section 23 of this 2020 Act to test psilocybin products before selling or transferring the psilocybin products.
- (4) The authority may conduct random testing of psilocybin products for the purpose of determining whether a licensee subject to testing under subsection (3) of this section is in compliance with this section.
- (5) In adopting rules to implement this section, the authority may not require a psilocybin product to undergo the same test more than once unless the psilocybin product is processed into a different type of psilocybin product or the condition of the psilocybin product has fundamentally changed.
- (6) The testing of psilocybin products as required by this section must be conducted by a laboratory licensed by the authority under section 97 of this 2020 Act and accredited by the authority under section 100 of this 2020 Act.
- (7) In adopting rules under subsection (1) of this section, the authority:
  - (a) Shall consider the cost of a potential testing procedure and how that cost will affect the cost to the ultimate client; and

(b) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

**SECTION 97. Laboratory licensure; qualifications; fees; rules.**

(1) A laboratory that conducts testing of psilocybin products as required by section 96 of this 2020 Act must have a license to operate at the premises at which the psilocybin products are tested.

(2) For purposes of this section, the Oregon Health Authority shall adopt rules establishing:

(a) Qualifications to be licensed under this section, including that an applicant for licensure under this section must be accredited by the authority as described in section 100 of this 2020 Act;

(b) Processes for applying for and renewing a license under this section;

(c) Fees for applying for, receiving and renewing a license under this section; and

(d) Procedures for:

(A) Tracking psilocybin products to be tested;

(B) Documenting and reporting test results; and

(C) Disposing of samples of psilocybin products that have been tested.

(3) A license issued under this section must be renewed annually.

(4) The authority may inspect premises licensed under this section to ensure compliance with sections 96 to 104 of this 2020 Act and rules adopted under sections 96 to 104 of this 2020 Act.

(5) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue or renew, or may suspend or revoke, a license issued under this section for violation of a provision of sections 3 to 129 of this 2020 Act or a rule adopted under a provision of sections 3 to 129 of this 2020 Act.

(6) Fees adopted under subsection (2)(c) of this section must be reasonably calculated to pay the expenses incurred by the authority under sections 3 to 129 of this 2020 Act.

(7) Fee moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under section 69 of this 2020 Act and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under sections 3 to 129 of this 2020 Act.

**SECTION 98. Authority to require fingerprints of applicants and other individuals.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under section 97 of this 2020 Act. The powers conferred on the authority under this section include the power to require the fingerprints of:

- (1) If the applicant is a limited partnership, each general partner of the limited partnership;
- (2) If the applicant is a manager-managed limited liability company, each manager of the limited liability company;
- (3) If the applicant is a member-managed limited liability company, each voting member of the limited liability company;
- (4) If the applicant is a corporation, each director and officer of the corporation; and
- (5) Any individual who holds a financial interest of 10 percent or more in the person applying for the license.

**SECTION 99. Statement of applicant for license under Section 97 of this 2020 Act.**

- (1) The Oregon Health Authority may require a licensee or applicant for a license under section 97 of this 2020 Act to submit, in a form and manner prescribed by the authority, to the authority a sworn statement showing:
  - (a) The name and address of each person that has a financial interest in the business operating or to be operated under the license; and
  - (b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.
- (2) The authority may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under section 97 of this 2020 Act if the authority determines that a person that has a financial interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the authority to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license.

**SECTION 100. Laboratory accreditation; qualifications; fees; rules.**

- (1) A laboratory that conducts testing of psilocybin products as required by section 96 of this 2020 Act must be accredited under ORS 438.605 to 438.620 and meet other qualifications as established by the Oregon Health Authority under this section.

(2) In addition to other qualifications required pursuant to ORS 438.605 to 438.620, the authority shall require an applicant for accreditation under ORS 438.605 to 438.620 for purposes related to the testing of psilocybin products to:

(a) Complete an application;

(b) Undergo an onsite inspection; and

(c) Meet other applicable requirements, specifications and guidelines for testing psilocybin products, as determined to be appropriate by the authority by rule.

(3) The authority may inspect premises licensed under section 97 of this 2020 Act to ensure compliance with sections 96 to 104 of this 2020 Act and rules adopted under sections 96 to 104 of this 2020 Act.

(4) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue or renew, or may suspend or revoke, a laboratory's accreditation granted under this section and ORS 438.605 to 438.620 for violation of a provision of sections 3 to 129 of this 2020 Act or a rule adopted under a provision of sections 3 to 129 of this 2020 Act.

(5) In establishing fees under ORS 438.620 for laboratories that test psilocybin products, the authority shall establish fees that are reasonably calculated to pay the expenses incurred by the authority under this section and ORS 438.605 to 438.620 in accrediting laboratories that test psilocybin products.

#### **SECTION 101. Authority of Oregon Health Authority to discipline licensees of authority.**

Subject to the applicable provisions of ORS chapter 183, if an applicant or licensee violates a provision of sections 96 to 104 of this 2020 Act or a rule adopted under a provision of sections 96 to 104 of this 2020 Act, the Oregon Health Authority may refuse to issue or renew, or may suspend or revoke, a license issued under section 23, 26, 30 or 97 of this 2020 Act.

#### **SECTION 102. Authority of Oregon Health Authority over certain persons, license actions.**

(1) Notwithstanding the lapse, suspension or revocation of a license issued under section 97 of this 2020 Act, the Oregon Health Authority may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or

(b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under sections 3 to 129 of this 2020 Act, the applicant for licensure may not withdraw the applicant's application.

**SECTION 103. Civil penalty for violating sections 96 to 104 of this 2020 Act.**

(1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of sections 96 to 104 of this 2020 Act, or a rule adopted under a provision of sections 96 to 104 of this 2020 Act, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under sections 3 to 129 of this 2020 Act.

**SECTION 104. Exemption from criminal liability.**

A person who holds a license under section 97 of this 2020 Act, and an employee of or other person who performs work for a person who holds a license under section 97 of this 2020 Act, are exempt from the criminal laws of this state for possession, delivery or manufacture of psilocybin, aiding and abetting another in the possession, delivery or manufacture of psilocybin, or any other criminal offense in which possession, delivery or manufacture of psilocybin is an element, while performing activities related to testing as described in sections 96 to 104 of this 2020 Act.

**PACKAGING, LABELING AND DOSAGE OF PSILOCYBIN PRODUCTS**

**SECTION 105. Labeling requirements; rules.**

(1) As is necessary to protect the public health and safety, and in consultation with the State Department of Agriculture and the Oregon Liquor Control Commission, the Oregon Health Authority shall adopt rules establishing standards for the labeling of psilocybin products, including but not limited to:

(a) Ensuring that psilocybin products have labeling that communicates:

(A) Health and safety warnings;

(B) If applicable, activation time;

(C) Potency;



(D) If applicable, serving size and the number of servings included in a psilocybin product;

(E) Content of the psilocybin product; and

(b) Labeling that is in accordance with applicable state food labeling requirements for the same type of food product or potable liquid when the food product or potable liquid does not contain psilocybin.

(2) In adopting rules under sections 3 to 129 of this 2020 Act, the authority shall require all psilocybin products sold or transferred by a psilocybin service center that holds a license issued under section 26 of this 2020 Act to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under subsection (1) of this section, the authority:

(a) May establish different labeling standards for different varieties and types of psilocybin products;

(b) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate client; and

(c) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

#### **SECTION 106. Authority to require preapproval of labels.**

(1) The Oregon Health Authority may by rule require a licensee to submit a label intended for use on a psilocybin product for preapproval by the authority before the licensee may sell or transfer a psilocybin product bearing the label. The authority shall determine whether a label submitted under this section complies with section 105 of this 2020 Act and any rule adopted under section 105 of this 2020 Act.

(2) The authority may impose a fee for submitting a label for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section.

#### **SECTION 107. Packaging requirements; rules.**

(1) As is necessary to protect the public health and safety, and in consultation with the State Department of Agriculture and the Oregon Liquor Control Commission, the Oregon Health Authority shall adopt rules establishing standards for the packaging of psilocybin products, including but not limited to ensuring that psilocybin products are not marketed in a manner that:

(a) Is untruthful or misleading; or

(b) Otherwise creates a significant risk of harm to public health and safety.

(2) In adopting rules under sections 3 to 129 of this 2020 Act, the authority shall require all psilocybin products sold or transferred by a psilocybin service center that holds a license issued under section 26 of this 2020 Act to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under subsection (1) of this section, the authority:

(a) May establish different packaging standards for different varieties and types of psilocybin products;

(b) May consider the effect on the environment of requiring certain packaging;

(c) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate client; and

(d) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

#### **SECTION 108. Authority to require preapproval of packaging.**

(1) The Oregon Health Authority may by rule require a licensee to submit packaging intended for a psilocybin product for preapproval by the authority before the licensee may sell or transfer a psilocybin product packaged in the packaging. The authority shall determine whether packaging submitted under this section complies with section 107 of this 2020 Act and any rule adopted under section 107 of this 2020 Act.

(2) The authority may impose a fee for submitting packaging for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section.

#### **SECTION 109. Dosage requirements; rules.**

(1) The Oregon Health Authority shall adopt rules establishing:

(a) The maximum concentration of psilocybin that is permitted in a single serving of a psilocybin product; and

(b) The number of servings that are permitted in a psilocybin product package.

(2) In adopting rules under sections 3 to 129 of this 2020 Act, the authority shall require all psilocybin products sold or transferred by a psilocybin service center that holds a license under section 26 of this 2020 Act to meet the concentration standards and packaging standards adopted by rule pursuant to this section.

**SECTION 110. Authority of Oregon Health Authority to inspect.**

To ensure compliance with sections 105 to 112 of this 2020 Act and any rule adopted under sections 105 to 112 of this 2020 Act, the Oregon Health Authority may inspect the premises of a person that holds a license under section 23 or 26 of this 2020 Act.

**SECTION 111. Authority of Oregon Health Authority to discipline licensees of authority.**

Subject to the applicable provisions of ORS chapter 183, if the applicant or licensee violates a provision of sections 105 to 112 of this 2020 Act or a rule adopted under a provision of sections 105 to 112 of this 2020 Act, the Oregon Health Authority may refuse to issue or renew, or may suspend or revoke, a license issued under section 23, 26 or 30 of this 2020 Act.

**SECTION 112. Civil penalty for violating sections 105 to 112 of this 2020 Act.**

(1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of sections 105 to 112 of this 2020 Act, or a rule adopted under a provision of sections 105 to 112 of this 2020 Act, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under section 69 of this 2020 Act and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under sections 3 to 129 of this 2020 Act.

**TAXATION OF PSILOCYBIN PRODUCTS**

**SECTION 113. Definitions for sections 113 to 127 of this 2020 Act.**

As used in sections 113 to 127 of this 2020 Act:

(1) "Retail sale" means any transfer, exchange, gift or barter of a psilocybin product by any person to a client.

(2) "Retail sales price" means the price paid for a psilocybin product, excluding tax, to a psilocybin service center operator by or on behalf of a client.

**SECTION 114. Imposition of tax on retail sale of psilocybin products.**

(1) A tax is hereby imposed upon the retail sale of psilocybin products in this state. The tax imposed by this section is a direct tax on the client, for which payment upon retail sale is required. The tax shall be collected at the point of sale of a psilocybin product by a psilocybin service center operator at the time at which the retail sale occurs.

(2) The tax imposed under this section shall be imposed at the rate of 15 percent of the retail sales price of psilocybin products.

(3) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.

(4) Except as otherwise provided by the Department of Revenue by rule, the amount of the tax shall be separately stated on an invoice, receipt or other similar document that the psilocybin service center operator provides to the client at the time at which the retail sale occurs.

(5) A person may not knowingly sell, purchase, install, transfer or possess electronic devices or software programs for the purposes of:

(a) Hiding or removing records of retail sales of psilocybin products; or

(b) Falsifying records of retail sales of psilocybin products.

(6)(a) A psilocybin service center operator may not discount a psilocybin product or offer a psilocybin product for free if the retail sale of the psilocybin product is made in conjunction with the retail sale of any other item or service.

(b) Paragraph (a) of this subsection does not affect any provision of sections 3 to 129 of this 2020 Act or any rule adopted by the Oregon Health Authority pursuant to sections 3 to 129 of this 2020 Act that is related to the retail sale of psilocybin products.

(7) The authority shall regularly review the rate of tax under subsection (2) of this section and make recommendations to the Legislative Assembly regarding appropriate adjustments to the rate that will further the purposes of:

(a) Providing the authority with moneys sufficient to administer and enforce sections 3 to 129 of this 2020 Act; and

(b) Not providing the authority with moneys that exceed, together with fees collected under sections 3 to 129 of this 2020 Act, the cost of administering and enforcing sections 3 to 129 of this 2020 Act.

**SECTION 115. Collection of tax; refund; credit; penalties.**

- (1) Except as otherwise provided in sections 113 to 127 of this 2020 Act, the tax imposed upon the client under section 114 of this 2020 Act shall be collected at the point of sale and remitted by each psilocybin service center operator that engages in the retail sale of psilocybin products. The tax is considered a tax upon the psilocybin service center operator that is required to collect the tax, and the psilocybin service center operator is considered a taxpayer.
- (2) The psilocybin service center operator shall file a return to the Department of Revenue on or before the last day of January, April, July and October of each year for the previous calendar quarter.
- (3) The psilocybin service center operator shall pay the tax to the department in the form and manner prescribed by the department, but not later than with each quarterly return, without regard to an extension granted under subsection (5) of this section.
- (4) Psilocybin service center operators shall file the returns required under this section regardless of whether any tax is owed.
- (5) For good cause, the department may extend the time for filing a return under this section. The extension may be granted at any time if a written request is filed with the department during or prior to the period for which the extension may be granted. The department may not grant an extension of more than 30 days.
- (6) Interest shall be added at the rate established under ORS 305.220 from the time the return was originally required to be filed to the time of payment.
- (7) If a psilocybin service center operator fails to file a return or pay the tax as required by this section, the department shall impose a penalty in the manner provided in ORS 314.400.
- (8) Except as provided in subsections (9) and (10) of this section, the period prescribed for the department to allow or make a refund of any overpayment of tax paid under sections 113 to 127 of this 2020 Act is as provided in ORS 314.415.
- (9)(a) The department shall first apply any overpayment of tax by a psilocybin service center operator to any psilocybin tax that is owed by the psilocybin service center operator.
- (b) If after any offset against any delinquent amount the overpayment of tax remains greater than \$1,000, the remaining refund shall be applied as a credit against the next subsequent calendar quarter as an estimated payment.
- (10) The department may not make a refund of, or credit, any overpayment of tax under sections 113 to 127 of this 2020 Act that was credited to the account of a psilocybin service center operator under subsection (9)(b) of this section if the return for that tax period is not filed within three years after the due date of that return.

**SECTION 116. Psilocybin revenue estimate.**

(1) Not later than 30 days before the beginning of each calendar quarter, the Oregon Department of Administrative Services shall forecast and prepare an estimate of the revenue that will be received during the remainder of the current biennium and subsequent three biennia pursuant to the tax imposed under section 114 of this 2020 Act. The estimate may be made on the basis of all pertinent information available to the Oregon Department of Administrative Services. Upon making the estimate, the Oregon Department of Administrative Services shall report the estimate to the Legislative Revenue Officer, the Legislative Fiscal Officer and the Department of Revenue.

(2) The Department of Revenue and the Oregon Health Authority shall provide the Oregon Department of Administrative Services with any information necessary for the Oregon Department of Administrative Services to perform its duties under this section.

**SECTION 117. Enforcement; liability; notice of liability; notices of determination and assessment.**

(1) Every person who collects any amount under section 115 of this 2020 Act shall hold the same in trust for the State of Oregon and for the payment thereof to the Department of Revenue in the manner and at the time provided in section 115 of this 2020 Act.

(2) At any time a psilocybin service center operator fails to remit any amount collected, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. The warrant shall be issued, recorded and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

(3)(a) In the case of a psilocybin service center operator that is assessed pursuant to the provisions of ORS 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer, employee or member of the psilocybin service center operator within three years from the time of assessment. Within 30 days from the date the notice of liability is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the liability and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of liability within 30 days after the notice of liability was mailed, the notice of liability becomes final. In that event, the officer, employee or member may appeal the notice of liability to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(4)(a) In the case of a failure to file a return on the due date, governed by the provisions of ORS 305.265 (10) and 314.400, the department, in addition to any action described in the provisions of ORS 305.265 (10) and 314.400, may send notices of determination and assessment to any officer, employee or member any time within three years after the assessment. The time of assessment against the officer, employee or member is 30 days after the date the notice of determination and assessment is mailed. Within 30 days from the date the notice of determination and assessment is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the assessment and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of determination and assessment within 30 days after the notice of determination and assessment was mailed, the notice of determination and assessment becomes final. In that event, the officer, employee or member may appeal the notice of determination and assessment to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(5)(a) More than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes.

(b) Notwithstanding the confidentiality provisions of section 125 of this 2020 Act, if more than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes, the department may require any or all of the officers, members or employees who may be held liable to appear before the department for a joint determination of liability. The department shall notify each officer, member or employee of the time and place set for the determination of liability.

(c) Each person notified of a joint determination under this subsection shall appear and present such information as is necessary to establish that person's liability or nonliability for payment of taxes to the department. If a person who was notified fails to appear, the department shall make

its determination on the basis of all the information and evidence presented. The department's determination is binding on all persons notified and required to appear under this subsection.

(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to section 125 of this 2020 Act by any person determined to be liable for unpaid taxes under this subsection, each person required to appear before the department under this subsection shall be impleaded by the plaintiff. The department may implead any officer, employee or member who may be held jointly and severally liable for the payment of taxes. Each person impleaded under this paragraph shall be made a party to the action before the tax court and shall make available to the tax court the information that was presented before the department, as well as other information that may be presented to the court.

(B) The court may determine that one or more persons impleaded under this paragraph are liable for unpaid taxes without regard to any earlier determination by the department that an impleaded person was not liable for unpaid taxes.

(C) If a person required to appear before the court under this subsection fails or refuses to appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court, the court shall make its determination on the basis of all the evidence introduced. Notwithstanding section 125 of this 2020 Act, the evidence constitutes a public record and shall be available to the parties and the court. The determination of the tax court is binding on all persons made parties to the action under this subsection.

(e) This section may not be construed to preclude a determination by the department or the Oregon Tax Court that more than one officer, employee or member are jointly and severally liable for unpaid taxes.

#### **SECTION 118. Duty to keep receipts, invoices and other records.**

(1) A psilocybin service center operator shall keep receipts, invoices and other pertinent records related to retail sales of psilocybin products in the form required by the Department of Revenue. Each record shall be preserved for five years from the time to which the record relates, or for as long as the psilocybin service center operator retains the psilocybin products to which the record relates, whichever is later. During the retention period and at any time prior to the destruction of records, the department may give written notice to the psilocybin service center operator not to destroy records described in the notice without written permission of the department. Notwithstanding any other provision of law, the department shall preserve reports and returns filed with the department for at least five years.

(2) The department or its authorized representative, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of



psilocybin products and any other investigations as the department deems necessary to carry out the provisions of sections 113 to 127 of this 2020 Act.

**SECTION 119. Authority to require production of books, papers, accounts and other information.**

(1) The Department of Revenue has authority, by order or subpoena to be served with the same force and effect and in the same manner as a subpoena is served in a civil action in the circuit court, or the Oregon Tax Court, to require the production at any time and place the department designates of any books, papers, accounts or other information necessary to carry out sections 113 to 127 of this 2020 Act. The department may require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for the information, with power to administer oaths to the person.

(2) If a person fails to comply with a subpoena or order of the department or to produce or permit the examination or inspection of any books, papers, records and equipment pertinent to an investigation or inquiry under sections 113 to 127 of this 2020 Act, or to testify to any matter regarding which the person is lawfully interrogated, the department may apply to the Oregon Tax Court or to the circuit court of the county in which the person resides or where the person is for an order to the person to attend and testify, or otherwise to comply with the demand or request of the department. The department shall apply to the court by ex parte motion, upon which the court shall make an order requiring the person against whom the motion is directed to comply with the request or demand of the department within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order shall be served upon the person to whom it is directed in the manner required by this state for service of process, which service is required to confer jurisdiction upon the court. Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, existing under the tax laws or other laws of this state.

**SECTION 120. Disclosure of information.**

(1) Notwithstanding the confidentiality provisions of section 125 of this 2020 Act, the Department of Revenue may disclose information received under ORS 317.363 and sections 113 to 127 of this 2020 Act to the Oregon Health Authority to carry out the provisions of sections 3 to 129 of this 2020 Act.

(2) The authority may disclose information obtained pursuant to sections 3 to 129 of this 2020 Act to the department for the purpose of carrying out the provisions of sections 3 to 129 of this 2020 Act.

**SECTION 121. Right to appeal determination of tax liability.**

Except as otherwise provided in sections 3 to 129 of this 2020 Act, a person aggrieved by an act or determination of the Department of Revenue or its authorized agent under ORS 317.363 and sections 113 to 127 of this 2020 Act may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person's liability for the tax imposed under sections 113 to 127 of this 2020 Act.

**SECTION 122. Duty to return excess tax collected.**

(1)(a) When an amount represented by a psilocybin service center operator at retail to a client as constituting the tax imposed under sections 113 to 127 of this 2020 Act is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the client to the psilocybin service center operator, the excess tax paid shall be returned by the psilocybin service center operator to the client upon written notification by the Department of Revenue or the client.

(b) The written notification must contain information necessary to determine the validity of the client's claim.

(2) If the psilocybin service center operator does not return the excess tax within 60 days after mailing of the written notification required under subsection (1) of this section, the client may appeal to the department for a refund of the amount of the excess tax, in the manner and within the time allowed under rules adopted by the department.

(3) If excess tax is returned to the client by the department, the department may issue a notice of deficiency for the excess tax to the psilocybin service center operator in the manner provided under ORS 305.265.

**SECTION 123. Authority to retain portions of tax to pay expenses incurred.**

For the purpose of compensating psilocybin service center operators for expenses incurred in collecting the tax imposed under section 114 of this 2020 Act, each psilocybin service center operator is permitted to deduct and retain two percent of the amount of taxes that are collected by the psilocybin service center operator from all retail sales of psilocybin products conducted by the psilocybin service center operator.

**SECTION 124. Duties and powers of Department of Revenue; rules; interagency cooperation.**

(1) The Department of Revenue shall administer and enforce sections 113 to 127 of this 2020 Act. The department is authorized to establish rules and procedures for the implementation and enforcement of sections 113 to 127 of this 2020 Act that are consistent with sections 113 to 127 of this 2020 Act and that the department considers necessary and appropriate to administer and enforce sections 113 to 127 of this 2020 Act.

(2) The Oregon Health Authority shall enter into an agreement with the department for the purpose of administering and enforcing those provisions of sections 113 to 127 of this 2020 Act, and rules or procedures established for the purpose of implementing and enforcing sections 113 to 127 of this 2020 Act, that the authority and the department determine are necessary for the effective and efficient administration, implementation and enforcement of sections 113 to 127 of this 2020 Act.

**SECTION 125. Applicability of tax laws to sections 113 to 127 of this 2020 Act.**

Except as otherwise provided in sections 113 to 127 of this 2020 Act or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto, apply to the determinations of taxes, penalties and interest under sections 113 to 127 of this 2020 Act.

**SECTION 126. Oregon Psilocybin Account.**

(1) There is established the Oregon Psilocybin Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under section 127 of this 2020 Act.

(3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Psilocybin Account.

(b) The department shall transfer quarterly the moneys in the Oregon Psilocybin Account to the Psilocybin Control and Regulation Fund.

**SECTION 127. Suspense account; payment of expenses; crediting balance to Oregon Psilocybin Account.**

(1) All moneys received by the Department of Revenue under sections 113 to 127 of this 2020 Act shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of sections 113 to 127 of this 2020 Act out of moneys received from the tax imposed under section 114 of this 2020 Act. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the department shall credit the balance of the moneys received by the department under this section to the Oregon Psilocybin Account established under section 126 of this 2020 Act.

## **AUTHORITY OF CITIES AND COUNTIES TO PROHIBIT ESTABLISHMENT OF PSILOCYBIN-RELATED BUSINESSES**

### **SECTION 128. Adoption of ordinances; referral to electors for approval.**

(1) The governing body of a city or county may adopt ordinances to be referred to the electors of the city or county as described in subsection (2) of this section that prohibit or allow the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

(a) Psilocybin product manufacturers that hold a license issued under section 23 of this 2020 Act;

(b) Psilocybin service center operators that hold a license issued under section 26 of this 2020 Act;  
or

(c) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county adopts an ordinance under this section, the governing body shall submit the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance to the Oregon Health Authority.

(4) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue licensing those premises to which the prohibition applies until the date of the next statewide general election.

(5) If an allowance is approved at the next statewide general election under subsection (2) of this section, the authority shall begin licensing the premises to which the allowance applies on the

first business day of the January immediately following the date of the next statewide general election.

(6) Notwithstanding any other provisions of law, a city or county that adopts an ordinance under this section that prohibits the establishment of an entity described in subsection (1) of this section may not impose a tax or fee on the manufacturing or sale of psilocybin products.

## **SEVERABILITY**

### **SECTION 129. Severability.**

If any section, subsection, paragraph, phrase or word of sections 3 to 129 of this 2020 Act is held to be unconstitutional, void or illegal, either on its face or as applied, that holding does not affect the applicability, constitutionality or legality of any other section, subsection, paragraph, phrase or word of sections 3 to 129 of this 2020 Act. To that end, the sections, subsections, paragraphs, phrases and words of sections 3 to 129 of this 2020 Act are intended to be severable. It is hereby declared to be the intent of the people of this state in adopting sections 3 to 129 of this 2020 Act that sections 3 to 129 of this 2020 Act would have been adopted had such unconstitutional, void or illegal sections, subsections, paragraphs, phrases or words, if any, not been included in sections 3 to 129 of this 2020 Act.

## **CONFORMING AMENDMENT**

### **SECTION 130. ORS 475.005 is amended to read:**

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

- (1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or medical supervision, which may have a detrimental effect on the individual or society.
- (2) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:
  - (a) A practitioner or an authorized agent thereof; or
  - (b) The patient or research subject at the direction of the practitioner.
- (3) "Administration" means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.

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

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

(6) "Controlled substance":

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

(b) Does not include:

(A) The plant Cannabis family Cannabaceae;

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

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

(D) The seeds of the plant Cannabis family Cannabaceae [;or]

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

**(F) Psilocybin or psilocin, but only if and to the extent that a person manufactures, delivers, or possesses psilocybin, psilocin, or psilocybin products in accordance with the provisions of sections 3 to 129 of this 2020 Act and rules adopted under sections 3 to 129 of this 2020 Act.**

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

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

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

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

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

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

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

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

(13) "Drug" means:

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

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

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

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

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

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

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

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

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

(17) "Practitioner" means physician, dentist, veterinarian, scientific investigator, certified nurse practitioner, physician assistant or other person licensed, registered or otherwise permitted by

law to dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state but does not include a pharmacist or a pharmacy.

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

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

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

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

(22) "Usable quantity" means:

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

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

(23) "Within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from a specified location or from any point on the boundary line of a specified unit of property.

## OTHER AMENDMENTS

### SECTION 131. ORS 316.680 is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the



laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(e)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(f) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a savings network account for higher education established under ORS 178.300 to 178.355.

(i) Any federal deduction that the taxpayer would have been allowed for the production, processing or sale of marijuana items authorized under ORS 475B.010 to 475B.545 or 475B.785 to 475B.949 but for section 280E of the Internal Revenue Code.

**(j) Any federal deduction that the taxpayer would have been allowed for the manufacturing or sale of psilocybin products or the provision of psilocybin services authorized under sections 3 to 129 of this 2020 Act but for section 280E of the Internal Revenue Code.**

~~[(j)]~~ **(k)** If included in taxable income for federal tax purposes, any distributions from an ABLE account that do not exceed the qualified disability expenses of the designated beneficiary as provided in ORS 178.375 and 178.380 and rules adopted by the Oregon 529 Savings Board.

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 178.300, from a savings network account for higher education established under ORS 178.300 to 178.355, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(k) If the taxpayer makes a distribution from an ABLE account that is not a qualified disability expense of the designated beneficiary as provided in ORS 178.375 and 178.380 and rules adopted by the Oregon 529 Savings Board, the amount of the distribution that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

**SECTION 132. ORS 317.363 is amended to read:**

317.363. Section 280E of the Internal Revenue Code applies to all trafficking in controlled substances in Schedule I or Schedule II that is prohibited by federal law or the laws of this state, other than conduct authorized under:

- (1) ORS 475B.010 to 475B.545 or 475B.785 to 475B.949 [.]; or
- (2) Sections 3 to 129 of this 2020 Act.

## DATES

### SECTION 133. Effective date.

This 2020 Act becomes effective 30 days after the date on which it is approved by a majority of the votes cast on it.

### SECTION 134. Operative date.

(1) Sections 3 to 129 of this 2020 Act and the amendments to ORS 475.005, 316.680, and 317.363 by sections 130 to 132 of this 2020 Act become operative on January 1, 2021.

(2) The Oregon Health Authority, the Governor, the Department of Agriculture and the Oregon Liquor Control Commission may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority, the Governor, the department or the commission to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the authority, the Governor, the department and the commission by sections 3 to 129 of this 2020 Act.