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2019 Regular Session

8/29/18 (JAS/ps)

DRAFT

AN ACT

1
2 Relating to psilocybin services; creating new provisions; and amending ORS
3 475.752, 475.900, 475.904 and 475.906.

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

5 **SECTION 1. Definitions. As used in sections 1 to 37 of this 2020 Act:**

6 (1) **“Authorized employee” means a person who holds a permit un-**
7 **der section 27 of this 2020 Act to perform work for or on behalf of a**
8 **licensee.**

9 (2) **“Contraindication” means a specific symptom or condition that**
10 **places a person at a higher risk of harmful or adverse outcomes from**
11 **the administration of a dose of a psilocybin product.**

12 (3) **“Deliver” or “delivery” means the transfer or attempted trans-**
13 **fer, other than by administering or dispensing, from one person to**
14 **another of psilocybin products, whether or not there is an agency re-**
15 **lationship.**

16 (4) **“Facilitator” means a person licensed under section 18 of this**
17 **2020 Act to administer psilocybin services, including a dose of a**
18 **psilocybin product, to a qualified client.**

19 (5) **“Fit to participate” means the absence of a contraindication.**

20 (6) **“Integration session” means a follow-up meeting that occurs**
21 **after a psilocybin session during which a facilitator and a qualified**
22 **client discuss the overall experience of the qualified client’s psilocybin**
23 **session.**

24 (7) **“Licensee” means a person who holds a license under section 9,**
25 **11, 13, 15 or 18 of this 2020 Act.**

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in boldfaced type.

1 (8) "Licensee representative" means an owner, director, officer,
2 manager or authorized employee of a licensee to the extent that the
3 person acts in a representative capacity.

4 (9)(a) "Manufacture" means the production, preparation, propa-
5 gation, compounding, conversion or processing of psilocybin, either
6 directly or indirectly by extraction from substances of natural origin,
7 or independently by means of chemical synthesis.

8 (b) "Manufacture" includes any packaging or repackaging of a
9 psilocybin product or labeling or relabeling of its container.

10 (10)(a) "Operator" means a person who is licensed under section 13
11 of this 2020 Act to operate a psilocybin products center or under sec-
12 tion 15 of this 2020 Act to operate a psilocybin services center.

13 (b) "Operator" includes a person who has a financial interest in the
14 business operating, or to be operated, under a license.

15 (11) "Preliminary screening" means a mental and physical health
16 assessment completed by a qualified medical practitioner to determine
17 whether a client is fit to participate in psilocybin services.

18 (12)(a) "Premises" includes the area licensed or affiliated with a li-
19 cense issued under section 9, 11, 13, 15 or 18 of this 2020 Act.

20 (b) "Premises" does not include a residential facility.

21 (13) "Preparation session" means the first meeting between a
22 facilitator and a qualified client to establish rapport and prepare the
23 qualified client for a psilocybin session.

24 (14) "Process" means the processing or conversion of psilocybin-
25 producing fungi into psilocybin products.

26 (15) "Produce" means the planting, cultivation, growing or har-
27 vesting of psilocybin-producing fungi.

28 (16)(a) "Psilocybin" means a hallucinogenic compound, including its
29 derivative psilocin, that is naturally produced by a species of fungus,
30 primarily from the genus *Psilocybe*.

31 (b) "Psilocybin" includes psilocybin-producing fungi.

1 (17) "Psilocybin processor" means a person who is licensed under
2 section 11 of this 2020 Act to process psilocybin into psilocybin pro-
3 ducts.

4 (18) "Psilocybin producer" means a person who is licensed under
5 section 9 of this 2020 Act to produce psilocybin.

6 (19) "Psilocybin product" includes psilocybin-producing fungi or a
7 mixture or substance containing psilocybin in any amount.

8 (20) "Psilocybin products center" means a premises licensed under
9 section 13 of this 2020 Act where psilocybin products are received,
10 stored or delivered.

11 (21) "Psilocybin service" means a sequence of the following sessions
12 administered by a facilitator at a psilocybin services center:

- 13 (a) A preparation session;
- 14 (b) A psilocybin session; and
- 15 (c) An integration session.

16 (22) "Psilocybin services center" means a premises licensed under
17 section 15 of this 2020 Act where:

- 18 (a) Psilocybin products are received, stored or delivered; and
- 19 (b) A qualified client may participate in psilocybin services.

20 (23) "Psilocybin session" means a session that follows a preparation
21 session in which a qualified client receives a dose of a psilocybin
22 product under the supervision of a facilitator.

23 (24) "Qualified client" means a person who has been determined by
24 a qualified medical practitioner as fit to participate in psilocybin ser-
25 vices.

26 (25)(a) "Qualified medical practitioner" means a physician licensed
27 under ORS chapter 677 or a nurse practitioner licensed under ORS
28 678.375 to 678.390 who conducts a preliminary screening to determine
29 whether a person is fit to participate in psilocybin services.

30 (b) "Qualified medical practitioner" does not include a person who
31 holds a direct financial interest in a psilocybin products center or a

1 psilocybin services center.

2

3

OREGON PSILOCYBIN SERVICES PROGRAM

4

5 **SECTION 2. Establishment of program.** The Oregon Health Au-
6 **thority shall establish the Oregon Psilocybin Services Program:**

7 (1) For the issuance of licenses under sections 9, 11, 13, 15 and 18
8 of this 2020 Act to applicants who meet the requirements of sections
9 9, 11, 13, 15 and 18 of this 2020 Act to produce, process, possess and
10 administer psilocybin products;

11 (2) To authorize the delivery of psilocybin products between
12 licensees;

13 (3) To track activities related to possession and delivery of
14 psilocybin products by licensees; and

15 (4) To ensure that the activities related to the administration of
16 psilocybin services are conducted in compliance with the rules and
17 standards established under sections 1 to 37 of this 2020 Act.

18

19

GENERAL POWERS AND DUTIES

20

21 **SECTION 3. Duties; rules.** (1) The Oregon Health Authority has the
22 duties, functions and powers specified in sections 1 to 37 of this 2020
23 Act. The jurisdiction, supervision, duties, functions and powers of the
24 authority extend to any person that produces, processes, delivers or
25 administers psilocybin products pursuant to a license issued under
26 section 9, 11, 13, 15 or 18 of this 2020 Act.

27 (2) The authority shall adopt, amend or repeal rules as necessary
28 to implement, administer and enforce the provisions of sections 1 to
29 37 of this 2020 Act and to protect the public health and safety. At a
30 minimum, the rules must:

31 (a) Establish requirements and procedures for a person to obtain a

1 license to:

2 (A) Produce psilocybin-producing fungi;

3 (B) Process psilocybin-producing fungi into psilocybin products;

4 (C) Operate a psilocybin products center;

5 (D) Operate a psilocybin services center; and

6 (E) Administer psilocybin services to qualified clients at a
7 psilocybin services center.

8 (b) Establish restrictions for delivery of psilocybin products between
9 licensees.

10 (c) Specify minimum criteria for a qualified client to participate in
11 psilocybin services, except that the criteria may not require a qualified
12 client to demonstrate an illness or medical condition to participate in
13 psilocybin services.

14 (d) Establish minimum requirements for a psilocybin services cen-
15 ter, except that rules may not restrict the location of a psilocybin
16 services center to a hospital or medical facility.

17 (e) Establish standards for ascertaining the qualifications and
18 competence of individuals who apply for a license under section 5 of
19 this 2020 Act.

20 (f) Establish procedures for the authority to follow when conducting
21 audits and inspections of psilocybin products centers and psilocybin
22 services centers.

23 (3) The authority shall keep informed as to emerging academic,
24 scientific and clinical research and public policies concerning
25 psilocybin and, to the greatest extent possible, consider such infor-
26 mation in adopting, amending or repealing rules and establishing
27 minimum standards of practice and guidelines under section 21 of this
28 2020 Act.

29

30

QUALIFIED CLIENTS

31

1 **SECTION 4. Eligibility; fees; rules.** (1)(a) A person may not partic-
2 ipate in psilocybin services unless the person has completed a prelim-
3 inary screening that establishes that the person is a qualified client.

4 (b) The results of a preliminary screening are valid for one year
5 from the date of the preliminary screening. After the expiration of a
6 preliminary screening, a qualified client may participate in psilocybin
7 services only if the client completes a new preliminary screening that
8 reestablishes that the client is a qualified client.

9 (2) Before a qualified client may participate in psilocybin services,
10 the qualified client must present a copy of the results of the qualified
11 client's preliminary screening to the operator, or an authorized em-
12 ployee of the operator, at the psilocybin services center where the
13 qualified client seeks to participate in psilocybin services.

14 (3)(a) Notwithstanding section 26 of this 2020 Act, a qualified client
15 may provide written, informed consent, in a form and manner pre-
16 scribed by the Oregon Health Authority by rule, that authorizes a
17 psilocybin services center to release information to another psilocybin
18 services center.

19 (b) Upon receiving a request from a psilocybin services center, a
20 psilocybin services center that has obtained the written consent de-
21 scribed in paragraph (a) of this subsection may provide the following
22 information to the requesting psilocybin services center:

23 (A) A copy of the results of the qualified client's preliminary
24 screening; and

25 (B) The dates of the most recent psilocybin services in which the
26 qualified client participated.

27
28 **APPLICATION PROCESS AND LICENSING**
29

30 **SECTION 5. Application process for all licensees; rules.** (1) An ap-
31 plicant for a license or renewal of a license issued under section 9, 11,

1 13, 15 or 18 of this 2020 Act shall apply to the Oregon Health Authority
2 in a form and manner prescribed by the authority by rule.

3 (2) A person may hold:

4 (a) Multiple licenses to conduct at different premises the same ac-
5 tivity for which a license is required under the provisions of sections
6 1 to 37 of this 2020 Act.

7 (b) Multiple types of licenses to conduct at the same or different
8 premises different activities for which a license is required under the
9 provisions of sections 1 to 37 of this 2020 Act.

10 (3) The authority may not grant or renew a license until the appli-
11 cant has complied with the provisions of sections 8 to 18 of this 2020
12 Act and the rules of the authority.

13 (4) The authority may reject any application that is not submitted
14 in the form required by rule. The authority shall give applicants an
15 opportunity to be heard if an application is rejected under this sub-
16 section. A hearing under this subsection is not subject to the require-
17 ments for contested case proceedings under ORS chapter 183.

18 SECTION 6. Grounds for refusing to issue a license. (1) The Oregon
19 Health Authority may not license an applicant under section 9, 11, 13,
20 15 or 18 of this 2020 Act if the applicant is under 21 years of age.

21 (2) The authority may revoke or refuse to issue or renew a license
22 to an applicant if the authority finds that the applicant:

23 (a) Has made false statements to the authority;

24 (b) Is administering or delivering psilocybin or psilocybin products
25 without a license issued under section 9, 11, 13, 15 or 18 of this 2020
26 Act;

27 (c) Does not have a good record of compliance with sections 1 to
28 37 of this 2020 Act;

29 (d) Is not of good repute and moral character; or

30 (e) Has been convicted of violating a federal law, state law or local
31 ordinance if the conviction is substantially related to the fitness and

1 ability of the applicant to lawfully carry out the activities under the
2 license.

3 (3) Except as provided under section 5 (4) of this 2020 Act, a revo-
4 cation of, or a refusal to issue or renew, a license under section 9, 11,
5 13, 15 or 18 of this 2020 Act is subject to the requirements for contested
6 case proceedings under ORS chapter 183.

7 **SECTION 7. Authority to require fingerprints of applicants and**
8 **other individuals.** For the purpose of requesting a state or nationwide
9 criminal records check under ORS 181A.195, the Oregon Health Au-
10 thority may require the fingerprints of any individual listed on an
11 application for a license issued under section 9, 11, 13, 15 or 18 of this
12 2020 Act. The powers conferred on the authority under this section
13 include the power to require the fingerprints of:

14 (1) If the applicant is a limited partnership, each partner of the
15 limited partnership;

16 (2) If the applicant is a limited liability company, each member of
17 the limited liability company;

18 (3) If the applicant is a corporation, each director and officer of the
19 corporation;

20 (4) Any individual who holds a financial interest of 10 percent or
21 more in the person applying for the license; and

22 (5) Any individual who is a partner, member, director or officer of
23 a legal entity with a financial interest in the person applying for the
24 license.

25
26 **LICENSEES IN GENERAL**

27
28 **SECTION 8. Lawful production, delivery and possession of**
29 **psilocybin products for regulated psilocybin services.** (1) Licensees and
30 licensee representatives may produce, deliver, administer and possess
31 psilocybin products subject to the provisions of sections 1 to 37 of this

1 2020 Act and rules adopted under sections 1 to 37 of this 2020 Act.

2 (2) The production, possession, delivery or administration of a
3 psilocybin product by a licensee or a licensee representative in com-
4 pliance with the provisions of sections 1 to 37 of this 2020 Act does not
5 constitute a criminal or civil offense under the laws of this state.

6
7 **LICENSE TO PRODUCE PSILOCYBIN**

8
9 **SECTION 9. Production license; fees; rules.** (1)(a) The production
10 of psilocybin is subject to regulation by the Oregon Health Authority.
11 To produce psilocybin for use in psilocybin services, a person must
12 have a production license issued by the authority for the premises
13 where the psilocybin is produced.

14 (b) The authority may not issue a production license until an ap-
15 plicant meets the requirements of this section.

16 (2) To hold a production license under this section, an applicant
17 shall:

18 (a) Apply for a license in the manner described in section 5 of this
19 2020 Act;

20 (b) Provide the address for the premises where the psilocybin will
21 be produced;

22 (c) Provide proof that the applicant is 21 years of age or older;

23 (d) Agree, in a form and manner prescribed by the authority by
24 rule, to:

25 (A) Produce psilocybin only for use in psilocybin services in ac-
26 cordance with the provisions of sections 1 to 37 of this 2020 Act; and

27 (B) Deliver psilocybin only to a psilocybin processor licensed under
28 section 11 of this 2020 Act, an operator of a psilocybin products center
29 licensed under section 13 of this 2020 Act or an operator of a psilocybin
30 services center licensed under section 15 of this 2020 Act, or a licensee
31 representative; and

1 (e) Comply with any rule adopted by the authority under the pro-
2 visions of sections 1 to 37 of this 2020 Act.

3 (3) The authority shall adopt rules that, at a minimum:

4 (a) Require a psilocybin producer to annually renew a license for
5 the premises where psilocybin is produced;

6 (b) Establish fees for processing applications and issuing and re-
7 newing the licenses of psilocybin producers;

8 (c) Establish specifications for storing, securing, delivering and
9 disposing of psilocybin products at a premises where psilocybin is
10 produced;

11 (d) Specify the maximum amount of psilocybin that may be
12 produced at a single premises where psilocybin is produced;

13 (e) Establish requirements for testing psilocybin for safety and
14 potency; and

15 (f) Require a psilocybin producer to submit to the authority, in the
16 manner described in section 10 of this 2020 Act, information related to
17 the production and delivery of psilocybin.

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

19 (a) May not exceed the cost of administering the provisions of
20 sections 1 to 37 of this 2020 Act with respect to psilocybin producers;
21 and

22 (b) Shall be deposited in the Psilocybin Control and Regulation
23 Fund established under section 28 of this 2020 Act.

24 SECTION 10. Duty to submit production and delivery data to
25 Oregon Health Authority. (1) A psilocybin producer licensed under
26 section 9 of this 2020 Act shall submit the following information re-
27 garding the production and delivery of psilocybin to the Oregon Health
28 Authority, in a form and manner established by the authority by rule,
29 for inclusion in the database established and maintained under section
30 24 of this 2020 Act:

31 (a) The amount of psilocybin produced at the premises where the

1 **psilocybin producer is licensed to produce psilocybin; and**

2 **(b) The amount of psilocybin delivered by the psilocybin producer**
3 **to:**

4 **(A) Each psilocybin processor licensed under section 11 of this 2020**
5 **Act;**

6 **(B) Each operator of a psilocybin products center licensed under**
7 **section 13 of this 2020 Act; and**

8 **(C) Each operator of a psilocybin services center licensed under**
9 **section 15 of this 2020 Act.**

10 **(2) A psilocybin producer shall keep a record of the information**
11 **described in subsection (1) of this section for at least two years after**
12 **the date on which the psilocybin producer submits the information to**
13 **the authority.**

14 **(3) The authority may require a psilocybin producer to submit to**
15 **the authority, for inclusion in the database established and maintained**
16 **under section 24 of this 2020 Act, information that is in addition to the**
17 **information described in subsection (1) of this section.**

18

19 **LICENSE TO PROCESS PSILOCYBIN PRODUCTS**

20

21 **SECTION 11. Processor license; fees; rules. (1)(a) The processing of**
22 **psilocybin products is subject to regulation by the Oregon Health Au-**
23 **thority. To process psilocybin products for use in psilocybin services,**
24 **a person must have a processing license issued by the authority for**
25 **the premises where the psilocybin is processed into psilocybin pro-**
26 **ducts.**

27 **(b) The authority may not issue a processing license until an ap-**
28 **plicant meets the requirements of this section.**

29 **(2) To hold a processing license under this section, an applicant**
30 **shall:**

31 **(a) Apply for a license in the manner described in section 5 of this**

1 **2020 Act;**

2 **(b) Provide the address for the premises where psilocybin products**
3 **will be processed;**

4 **(c) Provide proof that the applicant is 21 years of age or older;**

5 **(d) Agree, in a form and manner prescribed by the authority by**
6 **rule, to:**

7 **(A) Process psilocybin products only for use in psilocybin services**
8 **in accordance with the provisions of sections 1 to 37 of this 2020 Act;**

9 **(B) Receive psilocybin only from a psilocybin producer licensed un-**
10 **der section 9 of this 2020 Act, or a licensee representative; and**

11 **(C) Deliver psilocybin products only to an operator of a psilocybin**
12 **products center licensed under section 13 of this 2020 Act or an oper-**
13 **ator of a psilocybin services center licensed under section 15 of this**
14 **2020 Act, or a licensee representative; and**

15 **(e) Comply with any rule adopted by the authority under the pro-**
16 **visions of sections 1 to 37 of this 2020 Act.**

17 **(3) The authority shall adopt rules that, at a minimum:**

18 **(a) Require a psilocybin processor to annually renew a license for**
19 **the premises where psilocybin products are processed;**

20 **(b) Establish fees for processing applications and issuing and re-**
21 **newing the licenses of psilocybin processors;**

22 **(c) Establish specifications for storing, securing, delivering and**
23 **disposing of psilocybin products at a premises where psilocybin pro-**
24 **ducts are processed;**

25 **(d) Specify the maximum amount of psilocybin products that may**
26 **be processed and stored at a single premises;**

27 **(e) Establish requirements for testing psilocybin products for safety**
28 **and potency; and**

29 **(f) Require a psilocybin processor to submit to the authority, in the**
30 **manner described in section 12 of this 2020 Act, information related to**
31 **the processing and delivery of psilocybin products.**

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

2 (a) May not exceed the cost of administering the provisions of
3 sections 1 to 37 of this 2020 Act with respect to psilocybin processors;
4 and

5 (b) Shall be deposited in the Psilocybin Control and Regulation
6 Fund established under section 28 of this 2020 Act.

7 SECTION 12. Duty to submit processing and delivery data to Oregon
8 Health Authority. (1) A psilocybin processor licensed under section 11
9 of this 2020 Act shall submit the following information regarding the
10 processing and delivery of psilocybin products to the Oregon Health
11 Authority, in a form and manner established by the authority by rule,
12 for inclusion in the database established and maintained under section
13 24 of this 2020 Act:

14 (a) The amount and types of psilocybin products processed at the
15 premises where the psilocybin processor holds a license; and

16 (b) The amount and types of psilocybin products delivered by the
17 psilocybin processor to:

18 (A) Each operator of a psilocybin products center licensed under
19 section 13 of this 2020 Act; and

20 (B) Each operator of a psilocybin services center licensed under
21 section 15 of this 2020 Act.

22 (2) A psilocybin processor shall keep a record of the information
23 described in subsection (1) of this section for at least two years after
24 the date on which the psilocybin processor submits the information
25 to the authority.

26 (3) The authority may require a psilocybin processor to submit to
27 the authority, for inclusion in the database established and maintained
28 under section 24 of this 2020 Act, information that is in addition to the
29 information described in subsection (1) of this section.

30
31 **LICENSE TO OPERATE PSILOCYBIN PRODUCTS CENTER**

1 **SECTION 13. Operator license; fees; rules.** (1)(a) The operation of
2 a psilocybin products center is subject to regulation by the Oregon
3 Health Authority. To operate a psilocybin products center, a person
4 must have an operator's license issued by the authority for the prem-
5 ises at which psilocybin products are received, stored and delivered.

6 (b) The authority may not issue an operator's license until an ap-
7 plicant meets the requirements of this section.

8 (2) To hold an operator's license under this section, an applicant
9 shall:

10 (a) Apply for a license in the manner described in section 5 of this
11 2020 Act;

12 (b) Provide proof that the applicant is 21 years of age or older;

13 (c) Provide proof that the applicant has been a resident of this state
14 for two or more years;

15 (d) Provide the address for the premises of the psilocybin products
16 center;

17 (e) Provide the name and address of each individual or business
18 entity that holds an ownership interest in the psilocybin products
19 center;

20 (f) Agree, in a form and manner prescribed by the authority by rule,
21 to:

22 (A) Receive psilocybin products only from a psilocybin producer li-
23 censed under section 9 of this 2020 Act or a psilocybin processor li-
24 censed under section 11 of this 2020 Act, or a licensee representative;

25 (B) Deliver psilocybin products only to an operator of a psilocybin
26 services center licensed under section 15 of this 2020 Act, or a licensee
27 representative; and

28 (g) Comply with any rule adopted by the authority under the pro-
29 visions of sections 1 to 37 of this 2020 Act.

30 (3) The authority shall adopt rules that, at a minimum:

31 (a) Require an operator of a psilocybin products center to annually

1 **renew a license for the premises where the psilocybin products center**
2 **is located;**

3 **(b) Establish fees for processing applications and issuing and re-**
4 **newing the license of an operator of a psilocybin products center;**

5 **(c) Establish specifications for storing, securing, delivering and**
6 **disposing of psilocybin products at the premises of a psilocybin pro-**
7 **ducts center;**

8 **(d) Specify the maximum amount of psilocybin products that an**
9 **operator may store at a single psilocybin products center;**

10 **(e) Require an operator licensed under this section to submit to the**
11 **authority, in the manner described under section 14 of this 2020 Act,**
12 **information related to the receipt and delivery of psilocybin products;**

13 **(f) Require an operator licensed under this section to, upon request,**
14 **provide proof that each employee who is employed at the psilocybin**
15 **products center is an authorized employee;**

16 **(g) Require the installation and maintenance of a security system;**
17 **and**

18 **(h) Establish packaging and labeling requirements for psilocybin**
19 **products that are delivered from a psilocybin products center to a**
20 **psilocybin services center.**

21 **(4) An individual or business entity listed on an application under**
22 **subsection (2)(e) of this section may not hold more than 50 percent of**
23 **an ownership interest in a psilocybin products center that is licensed**
24 **under this section unless the individual is a resident of this state or**
25 **the business entity maintains a place of business in this state.**

26 **(5) Fees adopted under subsection (3)(b) of this section:**

27 **(a) May not exceed the cost of administering the provisions of**
28 **sections 1 to 37 of this 2020 Act with respect to operators of a**
29 **psilocybin products center; and**

30 **(b) Shall be deposited in the Psilocybin Control and Regulation**
31 **Fund established under section 28 of this 2020 Act.**

1 **SECTION 14. Duty to submit data to Oregon Health Authority.** (1)

2 **An operator of a psilocybin products center licensed under section 13**
3 **of this 2020 Act shall submit the following information to the Oregon**
4 **Health Authority, in a form and manner established by the authority**
5 **by rule, for inclusion in the database established and maintained under**
6 **section 24 of this 2020 Act:**

7 **(a) The amount and types of psilocybin products stored at the**
8 **premises; and**

9 **(b) The amount and types of psilocybin products delivered by the**
10 **psilocybin products center to each operator of a psilocybin services**
11 **center licensed under section 15 of this 2020 Act.**

12 **(2) An operator of a psilocybin products center shall keep a record**
13 **of the information described in subsection (1) of this section for at**
14 **least two years after the date on which the operator submits the in-**
15 **formation to the authority.**

16 **(3) The authority may require an operator of a psilocybin products**
17 **center to submit to the authority, for inclusion in the database es-**
18 **tablished and maintained under section 24 of this 2020 Act information**
19 **that is in addition to the information described in subsection (1) of this**
20 **section.**

21
22 **LICENSE TO OPERATE PSILOCYBIN SERVICES CENTER**

23
24 **SECTION 15. Operator license; fees; rules.** (1)(a) **The operation of**
25 **a psilocybin services center is subject to regulation by the Oregon**
26 **Health Authority. To operate a psilocybin services center, a person**
27 **must have an operator's license issued by the authority for the prem-**
28 **ises where psilocybin services are administered.**

29 **(b) The authority may not issue an operator's license until an ap-**
30 **plicant meets the requirements of this section.**

31 **(2) To hold an operator's license under this section, an applicant**

1 shall:

2 (a) Apply for a license in the manner described in section 5 of this
3 2020 Act;

4 (b) Provide proof that the applicant is 21 years of age or older;

5 (c) Provide proof that the applicant has been a resident of this state
6 for two or more years;

7 (d) Provide the address for the premises of the psilocybin services
8 center;

9 (e) Provide the name and address of each individual, or business
10 entity that holds an ownership interest in the psilocybin services cen-
11 ter;

12 (f) Agree, in a form and manner prescribed by the authority by rule,
13 to:

14 (A) Receive psilocybin products only from a psilocybin producer li-
15 censed under section 9 of this 2020 Act, a psilocybin processor licensed
16 under section 11 of this 2020 Act or an operator of a psilocybin pro-
17 ducts center licensed under section 13 of this 2020 Act, or licensee
18 representative;

19 (B) Deliver psilocybin products only to a facilitator licensed under
20 section 18 of this 2020 Act for use in a psilocybin session, or a licensee
21 representative; and

22 (C) Successfully complete a training course approved by the au-
23 thority under section 23 of this 2020 Act; and

24 (g) Comply with any rule adopted by the authority under the pro-
25 visions of sections 1 to 37 of this 2020 Act.

26 (3) The authority shall adopt rules that, at a minimum:

27 (a) Require an operator of a psilocybin services center to:

28 (A) Annually renew a license for the premises where the psilocybin
29 services center is located;

30 (B) Submit information related to the receipt and delivery of
31 psilocybin products under this section to the authority in the manner

1 described in section 16 of this 2020 Act; and

2 (C) Meet any minimum standards or practice established by the
3 authority under section 21 of this 2020 Act;

4 (b) Establish fees for processing applications and issuing and re-
5 newing licenses of operators of psilocybin services centers;

6 (c) Establish standards for the premises of a psilocybin services
7 center, including:

8 (A) Specifications for storing, securing and disposing of psilocybin
9 products at a premises;

10 (B) The maximum amount of psilocybin products that may be
11 stored at a premises;

12 (C) Specifications for the installation and maintenance of a security
13 system; and

14 (D) Specifications for the physical environment and general condi-
15 tions under which a psilocybin session may be administered;

16 (d) Establish the minimum staffing requirements for a psilocybin
17 services center licensed under this section, provided that each em-
18 ployee who is employed at a psilocybin services center is an authorized
19 employee;

20 (e) Establish a process for filing and resolving complaints against
21 an operator who does not operate a psilocybin services center in com-
22 pliance with any rule adopted by the authority; and

23 (f) Impose any other standards on the operation of a psilocybin
24 services center necessary to ensure the public health and safety.

25 (4) An individual or business entity listed on an application under
26 subsection (2)(e) of this section may not hold more than 50 percent of
27 an ownership interest in a psilocybin services center licensed under
28 this section unless the individual is a resident of this state or the
29 business entity maintains a place of business in this state.

30 (5)(a) An operator of a psilocybin services center may not allow
31 psilocybin services to be administered to a qualified client until the

1 qualified client has presented a copy of the results of the qualified
2 client's valid preliminary screening.

3 (b) The operator of a psilocybin services center shall retain a copy
4 of a qualified client's preliminary screening at the psilocybin services
5 center for at least one year after the date the qualified client first
6 presents the preliminary screening at the psilocybin services center.

7 (6) Notwithstanding section 26 of this 2020 Act, if the operator of a
8 psilocybin services center has obtained written, informed consent from
9 a qualified client that authorizes the release of information, the oper-
10 ator may provide information to another psilocybin services center in
11 accordance with section 4 (3) of this 2020 Act.

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

13 (a) May not exceed the cost of administering the provisions of
14 sections 1 to 37 of this 2020 Act with respect to operators of a
15 psilocybin services center; and

16 (b) Shall be deposited in the Psilocybin Control and Regulation
17 Fund established under section 28 of this 2020 Act.

18 **SECTION 16. Duty to submit data to the Oregon Health Authority.**

19 (1) An operator of a psilocybin services center licensed under section
20 15 of this 2020 Act shall submit the following information to the
21 Oregon Health Authority, in a form and manner established by the
22 authority by rule, for inclusion in the database established and main-
23 tained under section 24 of this 2020 Act:

24 (a) The amount and types of psilocybin products stored at the
25 psilocybin services center;

26 (b) The amount and types of psilocybin received from a psilocybin
27 producer licensed under section 9 of this 2020 Act;

28 (c) The amount and types of psilocybin products received from a
29 psilocybin processor licensed under section 11 of this 2020 Act;

30 (d) The amount and types of psilocybin products received from an
31 operator licensed under section 13 of this 2020 Act; and

1 (e) The amount and types of psilocybin products delivered to a
2 facilitator licensed under section 18 of this 2020 Act.

3 (2) An operator of a psilocybin services center shall keep a record
4 of the information described in subsection (1) of this section for at
5 least two years after the date on which the operator submits the in-
6 formation to the authority.

7 (3) The authority by rule may require an operator to submit to the
8 authority, for inclusion in the database established and maintained
9 under section 24 of this 2020 Act, information that is in addition to the
10 information described in subsection (1) of this section.

11
12 **LICENSE TO FACILITATE PSILOCYBIN SERVICES**

13
14 **SECTION 17. Lawful administration of psilocybin products at**
15 **psilocybin services centers.** The administering of a dose of a psilocybin
16 product to a qualified client by a facilitator at a psilocybin services
17 center in compliance with the provisions of sections 1 to 37 of this 2020
18 Act does not constitute a criminal or civil offense under the laws of
19 this state.

20 **SECTION 18. Facilitator license; fees; rules.** (1)(a) The adminis-
21 tration of psilocybin services is subject to regulation by the Oregon
22 Health Authority. To administer psilocybin services, a person must
23 have a facilitator license issued by the authority.

24 (b) The authority may not issue a facilitator license until an appli-
25 cant meets the requirements of this section.

26 (2) To hold a facilitator license under this section, an applicant
27 shall:

28 (a) Apply for a license in the manner described in section 5 of this
29 2020 Act;

30 (b) Provide proof that the applicant is 21 years of age or older;

31 (c) Agree, in a form and manner prescribed by the authority by

1 rule, to:

2 (A) Administer psilocybin services only to a qualified client;

3 (B) Administer a dose of a psilocybin product only to a qualified
4 client;

5 (C) Receive psilocybin products only from an operator of a
6 psilocybin services center licensed under section 15 of this 2020 Act,
7 or a licensee representative; and

8 (D) Complete a training course approved by the authority under
9 section 23 of this 2020 Act; and

10 (d) Comply with any rule adopted by the authority under the pro-
11 visions of sections 1 to 37 of this 2020 Act.

12 (3) The authority shall adopt rules that, at a minimum:

13 (a) Require a facilitator to annually renew a facilitator license;

14 (b) Establish fees for processing applications and issuing and re-
15 newing licenses of facilitators;

16 (c) Establish a process for filing and resolving complaints filed
17 against a facilitator who does not administer psilocybin services in
18 compliance with this section; and

19 (d) Require a facilitator to meet any minimum standards of practice
20 or guidelines established by the authority under section 21 of this 2020
21 Act.

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

23 (a) May not exceed the cost of administering the provisions of
24 sections 1 to 37 of this 2020 Act with respect to facilitators; and

25 (b) Shall be deposited in the Psilocybin Control and Regulation
26 Fund established under section 28 of this 2020 Act.

27 (5) A facilitator may not administer a psilocybin service to any
28 person other than a qualified client who is at least 21 years of age.

29 (6)(a) A facilitator shall carry the facilitator license at all times
30 when the facilitator is administering psilocybin services at a psilocybin
31 services center.

1 (b) A facilitator shall exhibit the facilitator license upon request to
2 any person with whom the facilitator intends to interact in the ca-
3 pacity of a facilitator.

4
5 **POWERS AND DUTIES OF THE OREGON HEALTH AUTHORITY**
6 **WITH RESPECT TO LICENSEES**
7

8 **SECTION 19. Authority to inspect.** To ensure compliance with
9 sections 5 to 18 of this 2020 Act, the Oregon Health Authority may
10 inspect a premises licensed under sections 8 to 18 of this 2020 Act and
11 all records maintained at the premises.

12 **SECTION 20. Authority to limit quantity of psilocybin products de-**
13 **livered and issuance of licenses.** (1) The Oregon Health Authority may
14 possess, seize or dispose of psilocybin products as necessary for the
15 authority to ensure compliance with and enforce the provisions of
16 sections 1 to 37 of this 2020 Act and any rules adopted under sections
17 1 to 37 of this 2020 Act.

18 (2) The authority may limit the quantity of psilocybin products that
19 may be delivered between licensees if the authority determines that
20 the limitation is necessary to prevent the unlawful resale or diversion
21 of psilocybin products from this state to other states.

22 (3) If the authority determines that the supply of psilocybin pro-
23 ducts exceeds the demand for the psilocybin products used in
24 psilocybin services centers, the authority may temporarily suspend
25 issuing or renewing licenses issued under sections 9, 11, 13, 15 and 18
26 of this 2020 Act.

27 **SECTION 21. Minimum standards and guidelines.** (1)(a) The Oregon
28 Health Authority shall establish minimum standards of practice and
29 guidelines for operators of psilocybin services centers licensed under
30 section 15 of this 2020 Act and facilitators licensed under section 18 of
31 this 2020 Act.

1 (b) Notwithstanding ORS 183.310 (9), all standards and guidelines
2 established by the authority shall be adopted as rules pursuant to ORS
3 chapter 183.

4 (2) At a minimum, the standards of practice and guidelines must
5 include, but need not be limited to, the following:

6 (a) Procedures and protocols for a facilitator to administer
7 psilocybin services to qualified clients;

8 (b) A requirement that a two-week waiting period must elapse be-
9 fore a facilitator may administer a consecutive psilocybin service to
10 the same qualified client;

11 (c) Requirements that each facilitator shall:

12 (A) Successfully complete a training course that has been approved
13 by the authority under section 23 of this 2020 Act; and

14 (B) During the course of conducting a preparation session with a
15 qualified client:

16 (i) Discuss the results of the qualified client's preliminary screen-
17 ing;

18 (ii) Inform the qualified client of symptoms or effects of psilocybin
19 that the qualified client may experience during a psilocybin session;

20 (iii) Inform the qualified client of the mandatory two-week waiting
21 period that the qualified client must complete before participating in
22 consecutive psilocybin sessions; and

23 (iv) Obtain written, informed consent from the qualified client be-
24 fore administering a dose of a psilocybin product to the qualified cli-
25 ent; and

26 (d) The maximum period of time that may elapse between each of
27 the following psilocybin services:

28 (A) A preparation session and a psilocybin session; and

29 (B) A psilocybin session and an integration session.

30 (3) The authority shall, in consultation with the Advisory Board on
31 Psilocybin Services established under section 29 of this 2020 Act, an-

1 nually review the minimum standards of practice and guidelines
2 adopted under this section and revise the standards and guidelines as
3 necessary.

4 **SECTION 22. Code of ethics and professional conduct.** (1)(a) The
5 Oregon Health Authority shall, in consultation with the Advisory
6 Board on Psilocybin Services established under section 29 of this 2020
7 Act, adopt a code of ethics and professional conduct for licensees and
8 licensee representatives.

9 (b) The code of ethics and professional conduct must establish per-
10 missible and prohibited activities for an operator of a psilocybin ser-
11 vices center licensed under section 15 of this 2020 Act, a facilitator
12 licensed under section 18 of this 2020 Act and licensee representatives.

13 (2) The authority shall provide a copy of the code of ethics and
14 professional conduct to each licensee upon issuance of a license.

15 (3) The authority shall annually review the code of ethics and pro-
16 fessional conduct and revise the code as necessary.

17 **SECTION 23. Psilocybin services training course curriculum.** (1)
18 The Oregon Health Authority shall:

19 (a) Accredite training providers and approve training courses for
20 licensees who hold a license under section 9, 11, 13, 15 or 18 of this 2020
21 Act.

22 (b) Establish standards for training requirements and separate
23 training curricula applicable to each license.

24 (c) Establish a process by which an individual may submit a train-
25 ing course proposal for approval.

26 (2) At a minimum, the standards established under subsection (1)(b)
27 of this section must include:

28 (a) The contents and quality that a training curriculum must meet
29 to be considered for approval by the authority;

30 (b) The minimum qualifications that a person must meet to become
31 a training provider in psilocybin-related topics;

1 (c) Methods for administering a training course, including providing
2 seminars and classroom and online instruction;

3 (d) Methods to evaluate whether an individual has successfully
4 completed an approved training course; and

5 (e) Instruction regarding compliance with the federal Health In-
6 surance Portability and Accountability Act of 1996 (P.L. 104-191), in-
7 cluding 45 C.F.R. parts 160 and 164.

8 (3) The authority may establish standards for separate training
9 courses for licensee representatives and individuals who hold a finan-
10 cial or ownership interest in a psilocybin products center or psilocybin
11 services center.

12 (4) The authority shall approve a training course that meets the
13 standards established by the authority under this section.

14
15 **DATABASE AND CONFIDENTIALITY OF INFORMATION**

16
17 **SECTION 24. Duty to establish and maintain system for tracking,**
18 **production, processing and delivery of psilocybin products.** (1) The
19 **Oregon Health Authority shall establish and maintain a database to**
20 **track and store information relating to the production, processing and**
21 **delivery of psilocybin and psilocybin products by licensees under**
22 **sections 8 to 18 of this 2020 Act.**

23 (2) The database established and maintained under this section
24 must be capable of tracking, at a minimum:

25 (a) The information submitted to the authority under sections 10,
26 12, 14 and 16 of this 2020 Act;

27 (b) The production, processing and delivery of psilocybin products
28 by licensees;

29 (c) Data relating to the testing and labeling of psilocybin products
30 as required by the authority by rule;

31 (d) The addresses of premises:

1 (A) Where psilocybin producers hold a license to produce psilocybin
2 under section 9 of this 2020 Act;

3 (B) Where psilocybin processors hold a license to process psilocybin
4 products under section 11 of this 2020 Act;

5 (C) Of psilocybin products centers for which a license has been is-
6 sued under section 13 of this 2020 Act; and

7 (D) Of psilocybin services centers for which a license has been is-
8 sued under section 15 of this 2020 Act;

9 (e) The names of:

10 (A) Facilitators licensed to administer psilocybin services under
11 section 18 of this 2020 Act;

12 (B) Operators of psilocybin products centers licensed under section
13 13 of this 2020 Act; and

14 (C) Operators of psilocybin services centers licensed under section
15 15 of this 2020 Act; and

16 (f) Any other information that the authority determines is reason-
17 ably necessary to accomplish the duties, functions and powers con-
18 ferred on the authority by the provisions of sections 1 to 37 of this 2020
19 Act.

20 (3) Subject to subsection (4) of this section, the authority may pro-
21 vide information that is stored in the database established and main-
22 tained under this section to a law enforcement agency and to the
23 regulatory agency of a city or county to verify that a person is oper-
24 ating lawfully under a license issued under section 9, 11, 13, 15 or 18
25 of this 2020 Act.

26 (4)(a) The authority may not disclose any personally identifiable
27 information, as defined in ORS 432.005, or protected health information
28 relating to a qualified client that is stored in the database established
29 and maintained under this section.

30 (b) The authority may not disclose any personally identifiable in-
31 formation of a licensee, other than the name or address submitted

1 with an application under section 5 of this 2020 Act, as necessary to
2 verify the information under subsection (3) of this section.

3 (5) Information stored in the database established and maintained
4 under this section is confidential and not subject to public disclosure
5 under ORS 192.311 to 192.478.

6 (6) The authority may enter into an agreement with another state
7 agency to use the electronic system of the agency to store and track
8 the information described in this section provided that the system:

9 (a) Meets the confidentiality and privacy standards described in
10 subsection (5) of this section and section 26 of this 2020 Act; and

11 (b) Is capable of compiling, securing and storing the information
12 described in subsection (2) of this section.

13 (7) Nothing in this section prevents a law enforcement agency from
14 lawfully obtaining by subpoena information that is stored in the da-
15 tabase established and maintained under this section.

16 **SECTION 25. Use of database to verify information.** (1) The Oregon
17 Health Authority shall develop an electronic system by which licensees
18 and authorized employees may access the list of names and addresses
19 in the database established and maintained under section 24 of this
20 2020 Act to verify whether a person holds a valid license issued under
21 section 9, 11, 13, 15 or 18 of this 2020 Act.

22 (2) Information stored in the electronic system is confidential and
23 not subject to public disclosure under ORS 192.311 to 192.478.

24 **SECTION 26. Confidentiality of information.** (1) Except as author-
25 ized under sections 24 and 25 of this 2020 Act, any personally identifi-
26 able information as defined in ORS 432.005, other than a name of an
27 individual or an address submitted with an application under section
28 5 of this 2020 Act, that the Oregon Health Authority collects and
29 maintains for purposes of issuing a license is confidential and not
30 subject to public disclosure under ORS 192.311 to 192.478.

31 (2) The authority shall adopt rules that require operators of

1 psilocybin services centers licensed under section 15 of this 2020 Act,
2 facilitators licensed under section 18 of this 2020 Act and authorized
3 employees who have access to the protected health information of
4 qualified clients to comply with the privacy provisions of the federal
5 Health Insurance Portability and Accountability Act of 1996 (P.L.
6 104-191), including 45 C.F.R. parts 160 and 164.

7
8 **AUTHORIZED EMPLOYEES AND OTHER PERSONNEL**

9
10 **SECTION 27. Permit required to perform work for or on behalf of**
11 **psilocybin licensees.** (1) A person who performs work for or on behalf
12 of a person licensed under section 9, 11, 13, 15 or 18 of this 2020 Act
13 must have a valid permit issued by the Oregon Health Authority under
14 subsection (2) of this section to:

15 (a) Participate in the production, processing, possession, securing,
16 storing or delivery of psilocybin products at a premises for which a
17 license has been issued; and

18 (b) Use the database established and maintained under section 24
19 of this 2020 Act for the exclusive purpose of verifying information re-
20 garding licensure under section 9, 11, 13, 15 or 18 of this 2020 Act.

21 (2) The authority shall adopt rules that:

22 (a) Establish the qualifications for performing the work described
23 in subsection (1) of this section;

24 (b) Establish procedures for applying for and renewing a permit is-
25 sued under this section;

26 (c) Establish the term of a permit issued under this section; and

27 (d) Establish reasonable application, issuance and renewal fees for
28 a permit issued under this section.

29 (3) The authority may require an individual who applies for a per-
30 mit under this section to successfully complete a training course ap-
31 proved by the authority under section 23 of this 2020 Act.

1 (4) Fees adopted under subsection (2)(d) of this section:

2 (a) May not exceed the cost of administering the provisions of
3 sections 1 to 37 of this 2020 Act with respect to permit holders; and

4 (b) Shall be deposited in the Psilocybin Control and Regulation
5 Fund established under section 28 of this 2020 Act.

6 (5) The authority may not issue a permit to an applicant who is
7 under 21 years of age.

8
9 **PSILOCYBIN CONTROL AND REGULATION FUND**

10
11 **SECTION 28. Psilocybin Control and Regulation Fund.** The
12 Psilocybin Control and Regulation Fund is established in the State
13 Treasury, separate and distinct from the General Fund. Interest
14 earned by the Psilocybin Control and Regulation Fund shall be credited
15 to the fund. Moneys in the fund are continuously appropriated to the
16 Oregon Health Authority to administer and enforce the provisions of
17 sections 1 to 37 of this 2020 Act.

18
19 **ADVISORY BOARD ON PSILOCYBIN SERVICES**

20
21 **SECTION 29. Advisory Board on Psilocybin Services.** (1) There is
22 established the Advisory Board on Psilocybin Services within the
23 Oregon Health Authority. The purpose of the board is to advise and
24 assist the authority in carrying out its duties under the provisions of
25 sections 1 to 37 of this 2020 Act. Members of the board must be well-
26 informed on matters related to drug policy and scientific research and
27 must demonstrate an interest in research related to the use of
28 psilocybin for therapeutic purposes.

29 (2) The board shall consist of 11 voting members appointed by the
30 Director of the Oregon Health Authority, including, as far as practi-
31 cable, the following:

1 (a) An individual who has professional experience conducting sci-
2 entific research with psychedelic drugs;

3 (b) An individual who is a naturopathic physician licensed under
4 ORS chapter 685;

5 (c) An individual who has professional experience conducting sci-
6 entific research regarding the use of psychedelic drugs in clinical
7 therapy;

8 (d) An individual who has experience in the field of ethnobotany;

9 (e) An individual who has experience in the field of mycology;

10 (f) A trained or licensed practitioner of psychotherapy; and

11 (g) An individual who has specialized knowledge and experience in
12 psychedelic psychopharmacology.

13 (3) The term of a member of the board is three years. A member
14 is eligible for reappointment to the board. If there is a vacancy for any
15 cause, the director shall make an appointment for the unexpired term
16 to become immediately effective.

17 (4) The board shall select one of its members as chairperson and
18 another as vice chairperson for such terms and with such duties and
19 powers as the board considers necessary for performance of the func-
20 tions of those offices.

21 (5) A majority of the members of the board constitutes a quorum
22 for the transaction of business.

23 (6) The director may not appoint as a member an individual who is
24 an employee of the State of Oregon.

25 (7) The authority shall provide staff support to the board.

26 (8) The board shall meet at times and places and in the manner as
27 specified by the director or the chairperson of the board.

28 (9) Members of the board are not entitled to compensation.

29 **SECTION 30. Duties of the board.** The Advisory Board on Psilocybin
30 Services shall:

31 (1) Advise the Director of the Oregon Health Authority on the ad-

1 **ministrative aspects of the provisions of sections 1 to 37 of this 2020**
2 **Act, including rules and fees adopted and proposed for adoption;**

3 **(2) Conduct and coordinate research to advise the director on best**
4 **practices related to administering psilocybin products to qualified cli-**
5 **ents;**

6 **(3) Make recommendations to the director regarding the maximum**
7 **amount of psilocybin that is permitted in a single dose of a psilocybin**
8 **product;**

9 **(4) Propose rules to the director, including rules regarding the ad-**
10 **ministration of group psilocybin sessions; and**

11 **(5) Monitor and study federal laws, regulations and policies related**
12 **to psilocybin.**

13

14 **REGULATION OF PSILOCYBIN PRODUCTS CENTERS AND**
15 **PSILOCYBIN SERVICES CENTERS BY CITIES AND COUNTIES**

16

17 **SECTION 31. Preemption of municipal charter amendments and**
18 **local ordinances. The provisions of sections 1 to 37 of this 2020 Act are**
19 **designed to operate uniformly throughout this state and are para-**
20 **mount and superior to and fully replace and supersede any municipal**
21 **charter amendment or local ordinance inconsistent with the provisions**
22 **of sections 1 to 37 of this 2020 Act.**

23 **SECTION 32. Local time, place and manner regulations. (1) As used**
24 **in this section, “reasonable regulations” includes:**

25 **(a) Reasonable limitations on the hours during which a psilocybin**
26 **products center and a psilocybin services center may operate;**

27 **(b) Reasonable conditions on the manner in which a psilocybin**
28 **products center may deliver psilocybin products to psilocybin services**
29 **centers; and**

30 **(c) Reasonable requirements related to the public’s access to a**
31 **psilocybin products center or a psilocybin services center.**

1 (2) Notwithstanding section 31 of this 2020 Act, the governing body
2 of a city or county may adopt ordinances that impose reasonable reg-
3 ulations on the operation of psilocybin products centers and psilocybin
4 services centers.

5
6 **PROHIBITED CONDUCT**

7
8 **SECTION 33. Definitions.** As used in sections 33 to 36 of this 2020
9 Act:

10 (1) “Dry psilocybin-producing fungi” means psilocybin mushrooms
11 that have been dried and contain negligible amounts of moisture.

12 (2) “User unit” means a quantity of a mixture or substance con-
13 taining psilocybin with a potency equivalent to five grams of dry
14 psilocybin-producing fungi.

15 (3) “Wet psilocybin-producing fungi” means freshly picked or pre-
16 served psilocybin mushrooms that retain a significant amount of their
17 original moisture.

18 **SECTION 34. Unlawful possession of psilocybin.** (1) Except for
19 licensees and licensee representatives acting in accordance with
20 sections 8 to 18 of this 2020 Act and any rule adopted under the pro-
21 visions of sections 1 to 37 of this 2020 Act, it is unlawful for a person
22 to knowingly or intentionally possess psilocybin.

23 (2)(a) A person who violates this section by possessing less than 50
24 grams of dry psilocybin-producing fungi less than 500 grams of wet
25 psilocybin-producing fungi or less than 10 user units of a mixture or
26 substance containing psilocybin is guilty of:

27 (A) A Class C violation;

28 (B) A Class B violation, if the person has a prior felony conviction
29 at the time of the possession; or

30 (C) A Class A violation, if the person has two or more prior felony
31 convictions at the time of the possession.

1 (b) A person who violates this section by possessing 50 grams or
2 more but less than 100 grams of dry psilocybin-producing fungi, 500
3 grams or more but less than one kilogram of wet psilocybin-producing
4 fungi or 10 or more but less than 20 user units of a mixture or sub-
5 stance containing psilocybin is guilty of:

6 (A) A Class B violation;

7 (B) A Class A violation, if the person has a prior felony conviction
8 at the time of the possession; or

9 (C) A Class C misdemeanor, if the person has two or more prior
10 felony convictions at the time of the possession.

11 (c) A person who violates this section by possessing 100 grams or
12 more but less than 500 grams of dry psilocybin-producing fungi, one
13 kilogram or more but less than five kilograms of wet psilocybin-
14 producing fungi or 20 or more but less than 100 user units of a mixture
15 or substance containing psilocybin is guilty of:

16 (A) A Class A violation;

17 (B) A Class C misdemeanor, if the person has a prior felony con-
18 viction at the time of the possession; or

19 (C) A Class B misdemeanor, if the person has two or more prior
20 felony convictions at the time of the possession.

21 (d) A person who violates this section by possessing 500 grams or
22 more but less than one kilogram of dry psilocybin-producing fungi five
23 kilograms or more but less than 10 kilograms of wet psilocybin-
24 producing fungi or 100 or more but less than 200 user units of a mix-
25 ture or substance containing psilocybin is guilty of:

26 (A) A Class C misdemeanor;

27 (B) A Class B misdemeanor, if the person has a prior felony con-
28 viction at the time of the possession; or

29 (C) A Class A misdemeanor, if the person has two or more prior
30 felony convictions at the time of the possession.

31 (e) A person who violates this section by possessing one kilogram

1 or more but less than one and one-half kilograms of dry psilocybin-
2 producing fungi, 10 kilograms or more but less than 15 kilograms of
3 wet psilocybin-producing fungi or 200 or more but less than 300 user
4 units of a mixture or substance containing psilocybin is guilty of:

5 (A) A Class B misdemeanor;

6 (B) A Class A misdemeanor, if the person has a prior felony con-
7 viction at the time of the possession; or

8 (C) A Class C felony, if the person has two or more prior felony
9 convictions at the time of the possession.

10 (f) A person who violates this section by possessing one and one-
11 half kilograms or more but less than two kilograms of dry psilocybin-
12 producing fungi 15 kilograms or more but less than 20 kilograms of
13 wet psilocybin-producing fungi or 300 or more but less than 400 user
14 units of a mixture or substance containing psilocybin is guilty of:

15 (A) A Class A misdemeanor;

16 (B) A Class C felony, if the person has a prior felony conviction at
17 the time of the possession; or

18 (C) A Class B felony, if the person has two or more prior felony
19 convictions at the time of the possession.

20 (g) A person who violates this section by possessing two kilograms
21 or more but less than five kilograms of dry psilocybin-producing fungi,
22 20 kilograms or more but less than 50 kilograms of wet psilocybin-
23 producing fungi or 400 or more but less than 1,000 user units of a
24 mixture or substance containing psilocybin is guilty of:

25 (A) A Class C felony;

26 (B) A Class B felony, if the person has a prior felony conviction at
27 the time of the possession; or

28 (C) A Class A felony, if the person has two or more prior felony
29 convictions at the time of the possession.

30 (h) A person who violates this section by possessing five kilograms
31 or more but less than 10 kilograms of dry psilocybin-producing fungi,

1 50 kilograms or more but less than 100 kilograms of wet psilocybin-
2 producing fungi or 1,000 or more but less than 2,000 user units of a
3 mixture or substance containing psilocybin is guilty of:

4 (A) A Class B felony; or

5 (B) A Class A felony, if the person has a prior felony conviction at
6 the time of the possession.

7 (i) A person who violates this section by possessing 10 kilograms
8 or more of dry psilocybin-producing fungi, 100 kilograms or more of
9 wet psilocybin-producing fungi or 2,000 or more user units of a mixture
10 or substance containing psilocybin is guilty of a Class A felony.

11 **SECTION 35. Unlawful delivery of psilocybin.** (1) Except for
12 licensees and licensee representatives acting in accordance with
13 sections 8 to 18 of this 2020 Act and any rule adopted under the pro-
14 visions of sections 1 to 37 of this 2020 Act, it is unlawful for a person
15 to deliver psilocybin.

16 (2)(a) A person who violates this section by delivering less than 50
17 grams of dry psilocybin-producing fungi less than 500 grams of wet
18 psilocybin-producing fungi or less than 10 user units of a mixture or
19 substance containing psilocybin is guilty of:

20 (A) A Class B violation;

21 (B) A Class A violation, if the person has a prior felony conviction
22 at the time of the delivery; or

23 (C) A Class C misdemeanor, if the person has two or more prior
24 felony convictions at the time of the delivery.

25 (b) A person who violates this section by delivering 50 grams or
26 more but less than 100 grams of dry psilocybin-producing fungi, 500
27 grams or more but less than one kilogram of wet psilocybin-producing
28 fungi or 10 or more but less than 20 user units of a mixture or sub-
29 stance containing psilocybin is guilty of:

30 (A) A Class A violation;

31 (B) A Class C misdemeanor, if the person has a prior felony con-

1 viction at the time of the delivery; or

2 (C) A Class B misdemeanor, if the person has two or more prior
3 felony convictions at the time of the delivery.

4 (c) A person who violates this section by delivering 100 grams or
5 more but less than 500 grams of dry psilocybin-producing fungi, one
6 kilogram or more but less than five kilograms of wet psilocybin-
7 producing fungi or 20 or more but less than 100 user units of a mixture
8 or substance containing psilocybin is guilty of:

9 (A) A Class C misdemeanor;

10 (B) A Class B misdemeanor, if the person has a prior felony con-
11 viction at the time of the delivery; or

12 (C) A Class A misdemeanor, if the person has two or more prior
13 felony convictions at the time of the delivery.

14 (d) A person who violates this section by delivering 500 grams or
15 more but less than one kilogram of dry psilocybin-producing fungi,
16 five kilograms or more but less than 10 kilograms of wet psilocybin-
17 producing fungi or 100 or more but less than 200 user units of a mix-
18 ture or substance containing psilocybin is guilty of:

19 (A) A Class B misdemeanor;

20 (B) A Class A misdemeanor, if the person has a prior felony con-
21 viction at the time of the delivery; or

22 (C) A Class C felony, if the person has two or more prior felony
23 convictions at the time of the delivery.

24 (e) A person who violates this section by delivering one kilogram
25 or more but less than one and one-half kilograms of dry psilocybin-
26 producing fungi 10 kilograms or more but less than 15 kilograms of
27 wet psilocybin-producing fungi or 200 or more but less than 300 user
28 units of a mixture or substance containing psilocybin is guilty of:

29 (A) A Class A misdemeanor;

30 (B) A Class C felony, if the person has a prior felony conviction at
31 the time of the delivery; or

1 (C) A Class B felony, if the person has two or more prior felony
2 convictions at the time of the delivery.

3 (f) A person who violates this section by delivering one and one-half
4 kilograms or more but less than two kilograms of dry psilocybin-
5 producing fungi, 15 kilograms or more but less than 20 kilograms of
6 wet psilocybin-producing fungi or 300 or more but less than 400 user
7 units of a mixture or substance containing psilocybin is guilty of:

8 (A) A Class C felony;

9 (B) A Class B felony, if the person has a prior felony conviction at
10 the time of the delivery; or

11 (C) A Class A felony, if the person has two or more prior felony
12 convictions at the time of the delivery.

13 (g) A person who violates this section by delivering two kilograms
14 or more but less than five kilograms of dry psilocybin-producing fungi,
15 20 kilograms or more but less than 50 kilograms of wet psilocybin-
16 producing fungi or 400 or more but less than 1,000 user units of a
17 mixture or substance containing psilocybin is guilty of:

18 (A) A Class B felony; or

19 (B) A Class A felony, if the person has a prior felony conviction at
20 the time of the delivery.

21 (h) A person who violates this section by delivering five kilograms
22 or more of dry psilocybin-producing fungi, 50 kilograms or more of
23 wet psilocybin-producing fungi or 1,000 or more user units of a mixture
24 or substance containing psilocybin is guilty of A Class A felony.

25 (3)(a) A person who violates this section by delivering to a person
26 under 18 years of age less than 50 grams of dry psilocybin-producing
27 fungi, less than 500 grams of wet psilocybin-producing fungi or less
28 than 10 user units of a mixture or substance containing psilocybin is
29 guilty of:

30 (A) A Class B misdemeanor;

31 (B) A Class A misdemeanor, if the person has a prior felony con-

1 **viction at the time of the delivery; or**

2 **(C) A Class C felony, if the person has two or more prior felony**
3 **convictions at the time of the delivery.**

4 **(b) A person who violates this section by delivering to a person**
5 **under 18 years of age 50 grams or more but less than 100 grams of dry**
6 **psilocybin-producing fungi, 500 grams or more but less than one kilo-**
7 **gram of wet psilocybin-producing fungi or 10 or more but less than 20**
8 **user units of a mixture or substance containing psilocybin is guilty**
9 **of:**

10 **(A) A Class A misdemeanor;**

11 **(B) A Class C felony, if the person has a prior felony conviction at**
12 **the time of the delivery; or**

13 **(C) A Class B felony, if the person has two or more prior felony**
14 **convictions at the time of the delivery.**

15 **(c) A person who violates this section by delivering to a person**
16 **under 18 years of age 100 grams or more but less than 500 grams of**
17 **dry psilocybin-producing fungi, one kilogram or more but less than**
18 **five kilograms of wet psilocybin-producing fungi or 20 or more but less**
19 **than 100 user units of a mixture or substance containing psilocybin is**
20 **guilty of:**

21 **(A) A Class C felony;**

22 **(B) A Class B felony, if the person has a prior felony conviction at**
23 **the time of the delivery; or**

24 **(C) A Class A felony, if the person has two or more prior felony**
25 **convictions at the time of the delivery.**

26 **(d) A person who violates this section by delivering to a person**
27 **under 18 years of age 500 grams or more but less than one kilogram**
28 **of dry psilocybin-producing fungi, five kilograms or more but less than**
29 **10 kilograms of wet psilocybin-producing fungi or 100 or more but less**
30 **than 200 user units of a mixture or substance containing psilocybin is**
31 **guilty of:**

1 (A) A Class B felony; or

2 (B) A Class A felony, if the person has a prior felony conviction at
3 the time of the delivery.

4 (e) A person who violates this section by delivering to a person
5 under 18 years of age one kilogram or more of dry psilocybin-
6 producing fungi, 10 kilograms or more of wet psilocybin-producing
7 fungi or 200 or more user units of a mixture or substance containing
8 psilocybin is guilty of a Class A felony.

9 **SECTION 36. Unlawful manufacture of psilocybin.** (1) Except for
10 licensees and licensee representatives acting in accordance with
11 sections 8 to 18 of this 2020 Act and any rule adopted under the pro-
12 visions of sections 1 to 37 of this 2020 Act, it is unlawful for a person
13 to manufacture psilocybin.

14 (2)(a) A person who violates this section by manufacturing less than
15 50 grams of dry psilocybin-producing fungi, less than 500 grams of wet
16 psilocybin-producing fungi or less than 10 user units of a mixture or
17 substance containing psilocybin is guilty of:

18 (A) A Class B violation;

19 (B) A Class A violation, if the person has a prior felony conviction
20 at the time of the manufacture; or

21 (C) A Class C misdemeanor, if the person has two or more prior
22 felony convictions at the time of the manufacture.

23 (b) A person who violates this section by manufacturing 50 grams
24 or more but less than 100 grams of dry psilocybin-producing fungi, 500
25 grams or more but less than one kilogram of wet psilocybin-producing
26 fungi or 10 or more but less than 20 user units of a mixture or sub-
27 stance containing psilocybin is guilty of:

28 (A) A Class A violation;

29 (B) A Class C misdemeanor, if the person has a prior felony con-
30 viction at the time of the manufacture; or

31 (C) A Class B misdemeanor, if the person has two or more prior

1 felony convictions at the time of the manufacture.

2 (c) A person who violates this section by manufacturing 100 grams
3 or more but less than 500 grams of dry psilocybin-producing fungi, one
4 kilogram or more but less than five kilograms of wet psilocybin-
5 producing fungi or 20 or more but less than 100 user units of a mixture
6 or substance containing psilocybin is guilty of:

7 (A) A Class C misdemeanor;

8 (B) A Class B misdemeanor, if the person has a prior felony con-
9 viction at the time of the manufacture; or

10 (C) A Class A misdemeanor, if the person has two or more prior
11 felony convictions at the time of the manufacture.

12 (d) A person who violates this section by manufacturing 500 grams
13 or more but less than one kilogram of dry psilocybin-producing fungi,
14 five kilograms or more but less than 10 kilograms of wet psilocybin-
15 producing fungi or 100 or more but less than 200 user units of a mix-
16 ture or substance containing psilocybin is guilty of:

17 (A) A Class B misdemeanor;

18 (B) A Class A misdemeanor, if the person has a prior felony con-
19 viction at the time of the manufacture; or

20 (C) A Class C felony, if the person has two or more prior felony
21 convictions at the time of the manufacture.

22 (e) A person who violates this section by manufacturing one kilo-
23 gram or more but less than one and one-half kilograms of dry
24 psilocybin-producing fungi, 10 kilograms or more but less than 15
25 kilograms of wet psilocybin-producing fungi or 200 or more but less
26 than 300 user units of a mixture or substance containing psilocybin is
27 guilty of:

28 (A) A Class A misdemeanor;

29 (B) A Class C felony, if the person has a prior felony conviction at
30 the time of the manufacture; or

31 (C) A Class B felony, if the person has two or more prior felony

1 convictions at the time of the manufacture.

2 (f) A person who violates this section by manufacturing one and
3 one-half kilograms or more but less than two kilograms of dry
4 psilocybin-producing fungi, 15 kilograms or more but less than 20
5 kilograms of wet psilocybin-producing fungi or 300 or more but less
6 than 400 user units of a mixture or substance containing psilocybin is
7 guilty of:

8 (A) A Class C felony;

9 (B) A Class B felony, if the person has a prior felony conviction at
10 the time of the manufacture; or

11 (C) A Class A felony, if the person has two or more prior felony
12 convictions at the time of the manufacture.

13 (g) A person who violates this section by manufacturing two kilo-
14 grams or more but less than five kilograms of dry psilocybin-producing
15 fungi, 20 kilograms or more but less than 50 kilograms of wet
16 psilocybin-producing fungi or 400 or more but less than 1,000 user units
17 of a mixture or substance containing psilocybin is guilty of:

18 (A) A Class B felony; or

19 (B) A Class A felony, if the person has a prior felony conviction at
20 the time of the manufacture.

21 (h) A person who violates this section by manufacturing five kilo-
22 grams or more of dry psilocybin-producing fungi, 50 kilograms or more
23 of wet psilocybin-producing fungi or 1,000 or more user units of a
24 mixture or substance containing psilocybin is guilty of a Class A fel-
25 ony.

26
27 **PROTECTIONS FROM CRIMINAL LIABILITY**

28
29 **SECTION 37. Criminal Exemption.** A person is exempt from the
30 criminal laws of this state for the possession, delivery or manufacture
31 of psilocybin, aiding and abetting another in the possession, delivery

1 or manufacture of psilocybin or any other criminal offense in which
2 the possession, delivery or manufacture of psilocybin is an element if:

3 (1) The person holds a license issued under section 9, 11, 13, 15 or
4 18 of this 2020 Act and is acting in accordance with sections 1 to 37 of
5 this 2020 Act.

6 (2) The person is an authorized employee holding a permit issued
7 under section 27 of this 2020 Act and is acting in accordance with
8 sections 1 to 37 of this 2020 Act.

9

10

CONFORMING AMENDMENTS

11

12 **SECTION 38.** ORS 475.752 is amended to read:

13 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to
14 475.980 and sections 5 to 18 of this 2020 Act, it is unlawful for any person
15 to manufacture or deliver a controlled substance. Any person who violates
16 this subsection with respect to:

17 (a) A controlled substance in Schedule I, is guilty of a Class A felony,
18 except as otherwise provided in ORS 475.886 and 475.890 and sections 35
19 and 36 of this 2020 Act.

20 (b) A controlled substance in Schedule II, is guilty of a Class B felony,
21 except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and
22 475.906.

23 (c) A controlled substance in Schedule III, is guilty of a Class C felony,
24 except as otherwise provided in ORS 475.904 and 475.906.

25 (d) A controlled substance in Schedule IV, is guilty of a Class B
26 misdemeanor.

27 (e) A controlled substance in Schedule V, is guilty of a Class C
28 misdemeanor.

29 (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980,
30 it is unlawful for any person to create or deliver a counterfeit substance.
31 Any person who violates this subsection with respect to:

1 (a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

2 (b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

3 (c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

4 (d) A counterfeit substance in Schedule IV, is guilty of a Class B
5 misdemeanor.

6 (e) A counterfeit substance in Schedule V, is guilty of a Class C
7 misdemeanor.

8 (3) It is unlawful for any person knowingly or intentionally to possess a
9 controlled substance unless the substance was obtained directly from, or
10 pursuant to a valid prescription or order of, a practitioner while acting in
11 the course of professional practice, or except as otherwise authorized by ORS
12 475.005 to 475.285 and 475.752 to 475.980 **and sections 5 to 18 of this 2020**
13 **Act.** Any person who violates this subsection with respect to:

14 (a) A controlled substance in Schedule I, is guilty of a Class A
15 misdemeanor, except as otherwise provided in ORS 475.854, 475.874 and
16 475.894 and subsection (7) of this section **and section 34 of this 2020 Act.**

17 (b) A controlled substance in Schedule II, is guilty of a Class A
18 misdemeanor, except as otherwise provided in ORS 475.824, 475.834 or 475.884
19 or subsection (8) of this section.

20 (c) A controlled substance in Schedule III, is guilty of a Class A
21 misdemeanor.

22 (d) A controlled substance in Schedule IV, is guilty of a Class C
23 misdemeanor.

24 (e) A controlled substance in Schedule V, is guilty of a violation.

25 (4) In any prosecution under this section for manufacture, possession or
26 delivery of that plant of the genus *Lophophora* commonly known as peyote,
27 it is an affirmative defense that the peyote is being used or is intended for
28 use:

29 (a) In connection with the good faith practice of a religious belief;

30 (b) As directly associated with a religious practice; and

31 (c) In a manner that is not dangerous to the health of the user or others

1 who are in the proximity of the user.

2 (5) The affirmative defense created in subsection (4) of this section is not
3 available to any person who has possessed or delivered the peyote while
4 incarcerated in a correctional facility in this state.

5 (6)(a) Notwithstanding subsection (1) of this section, a person who un-
6 lawfully manufactures or delivers a controlled substance in Schedule IV and
7 who thereby causes death to another person is guilty of a Class C felony.

8 (b) For purposes of this subsection, causation is established when the
9 controlled substance plays a substantial role in the death of the other per-
10 son.

11 (7) Notwithstanding subsection (3)(a) of this section, unlawful possession
12 of a controlled substance in Schedule I is a Class B felony if:

13 (a) The person possesses a usable quantity of the controlled substance
14 and:

15 (A) At the time of the possession, the person has a prior felony con-
16 viction;

17 (B) At the time of the possession, the person has two or more prior con-
18 victions for unlawful possession of a usable quantity of a controlled sub-
19 stance; or

20 (C) The possession is a commercial drug offense under ORS 475.900 (1)(b);
21 or

22 (b) The person possesses[:]

23 [(A)] Forty or more user units of a mixture or substance containing a
24 detectable amount of lysergic acid diethylamide.[: or]

25 [(B) *Twelve grams or more of a mixture or substance containing a detect-*
26 *able amount of psilocybin or psilocin.*]

27 (8) Notwithstanding subsection (3)(b) of this section, unlawful possession
28 of a controlled substance in Schedule II is a Class C felony if the person
29 possesses a usable quantity of the controlled substance and:

30 (a) At the time of the possession, the person has a prior felony conviction;

31 (b) At the time of the possession, the person has two or more prior con-

1 victions for unlawful possession of a usable quantity of a controlled sub-
2 stance; or

3 (c) The possession is a commercial drug offense under ORS 475.900 (1)(b).

4 **SECTION 39.** ORS 475.900 is amended to read:

5 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or
6 475.906 shall be classified as crime category 8 of the sentencing guidelines
7 grid of the Oregon Criminal Justice Commission if:

8 (a) The violation constitutes delivery or manufacture of a controlled
9 substance and involves substantial quantities of a controlled substance. For
10 purposes of this paragraph, the following amounts constitute substantial
11 quantities of the following controlled substances:

12 (A) Five grams or more of a mixture or substance containing a detectable
13 amount of heroin;

14 (B) Ten grams or more of a mixture or substance containing a detectable
15 amount of cocaine;

16 (C) Ten grams or more of a mixture or substance containing a detectable
17 amount of methamphetamine, its salts, isomers or salts of its isomers;

18 (D) Two hundred or more user units of a mixture or substance containing
19 a detectable amount of lysergic acid diethylamide; **or**

20 *[(E) Sixty grams or more of a mixture or substance containing a detectable
21 amount of psilocybin or psilocin; or]*

22 *[(F)]* (E) Five grams or more or 25 or more pills, tablets or capsules of
23 a mixture or substance containing a detectable amount of:

24 (i) 3,4-methylenedioxyamphetamine;

25 (ii) 3,4-methylenedioxymethamphetamine; or

26 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

27 (b) The violation constitutes possession, delivery or manufacture of a
28 controlled substance **other than psilocybin** and the possession, delivery or
29 manufacture is a commercial drug offense. A possession, delivery or manu-
30 facture is a commercial drug offense for purposes of this subsection if it is
31 accompanied by at least three of the following factors:

1 (A) The delivery was of heroin, cocaine, methamphetamine[,] or lysergic
2 acid diethylamide[, *psilocybin* or *psilocin*] and was for consideration;

3 (B) The offender was in possession of \$300 or more in cash;

4 (C) The offender was unlawfully in possession of a firearm or other
5 weapon as described in ORS 166.270 (2), or the offender used, attempted to
6 use or threatened to use a deadly or dangerous weapon as defined in ORS
7 161.015, or the offender was in possession of a firearm or other deadly or
8 dangerous weapon as defined in ORS 161.015 for the purpose of using it in
9 connection with a controlled substance offense;

10 (D) The offender was in possession of materials being used for the pack-
11 aging of controlled substances such as scales, wrapping or foil, other than
12 the material being used to contain the substance that is the subject of the
13 offense;

14 (E) The offender was in possession of drug transaction records or cus-
15 tomer lists;

16 (F) The offender was in possession of stolen property;

17 (G) Modification of structures by painting, wiring, plumbing or lighting
18 to facilitate a controlled substance offense;

19 (H) The offender was in possession of manufacturing paraphernalia, in-
20 cluding recipes, precursor chemicals, laboratory equipment, lighting, venti-
21 lating or power generating equipment;

22 (I) The offender was using public lands for the manufacture of controlled
23 substances;

24 (J) The offender had constructed fortifications or had taken security
25 measures with the potential of injuring persons; or

26 (K) The offender was in possession of controlled substances in an amount
27 greater than:

28 (i) Three grams or more of a mixture or substance containing a detectable
29 amount of heroin;

30 (ii) Eight grams or more of a mixture or substance containing a detectable
31 amount of cocaine;

1 (iii) Eight grams or more of a mixture or substance containing a detect-
2 able amount of methamphetamine;

3 (iv) Twenty or more user units of a mixture or substance containing a
4 detectable amount of lysergic acid diethylamide; or

5 [(v) *Ten grams or more of a mixture or substance containing a detectable*
6 *amount of psilocybin or psilocin; or*]

7 [(vi)] (v) Four grams or more or 20 or more pills, tablets or capsules of
8 a mixture or substance containing a detectable amount of:

9 (I) 3,4-methylenedioxyamphetamine;

10 (II) 3,4-methylenedioxymethamphetamine; or

11 (III) 3,4-methylenedioxy-N-ethylamphetamine.

12 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868,
13 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

14 (d) The violation constitutes manufacturing methamphetamine and the
15 manufacturing consists of:

16 (A) A chemical reaction involving one or more precursor substances for
17 the purpose of manufacturing methamphetamine; or

18 (B) Grinding, soaking or otherwise breaking down a precursor substance
19 for the purpose of manufacturing methamphetamine.

20 (e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is
21 not described in ORS 475.907.

22 (2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as
23 crime category 6 of the sentencing guidelines grid of the Oregon Criminal
24 Justice Commission if:

25 (a) The violation constitutes delivery of heroin, cocaine, methamphet-
26 amine or 3,4-methylenedioxyamphetamine,
27 3,4-methylenedioxymethamphetamine or
28 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

29 (b) The violation constitutes possession of:

30 (A) Five grams or more of a mixture or substance containing a detectable
31 amount of heroin;

1 (B) Ten grams or more of a mixture or substance containing a detectable
2 amount of cocaine;

3 (C) Ten grams or more of a mixture or substance containing a detectable
4 amount of methamphetamine;

5 (D) Two hundred or more user units of a mixture or substance containing
6 a detectable amount of lysergic acid diethylamide; **or**

7 *[(E) Sixty grams or more of a mixture or substance containing a detectable*
8 *amount of psilocybin or psilocin; or]*

9 *[(F)]* (E) Five grams or more or 25 or more pills, tablets or capsules of
10 a mixture or substance containing a detectable amount of:

11 (i) 3,4-methylenedioxyamphetamine;

12 (ii) 3,4-methylenedioxymethamphetamine; or

13 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

14 (3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained
15 in subsection (1) or (2) of this section shall be classified as:

16 (a) Crime category 4 of the sentencing guidelines grid of the Oregon
17 Criminal Justice Commission if the violation involves delivery or manufac-
18 ture of a controlled substance; or

19 (b) Crime category 1 of the sentencing guidelines grid of the Oregon
20 Criminal Justice Commission if the violation involves possession of a con-
21 trolled substance.

22 (4) In order to prove a commercial drug offense, the state shall plead in
23 the accusatory instrument sufficient factors of a commercial drug offense
24 under subsections (1) and (2) of this section. The state has the burden of
25 proving each factor beyond a reasonable doubt.

26 (5) As used in this section, "mixture or substance" means any mixture or
27 substance, whether or not the mixture or substance is in an ingestible or
28 marketable form at the time of the offense.

29 **SECTION 40.** ORS 475.904 is amended to read:

30 475.904. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to
31 475.980, it is unlawful for any person to manufacture or deliver a schedule

1 I, II or III controlled substance within 1,000 feet of the real property com-
2 prising a public or private elementary, secondary or career school attended
3 primarily by minors.

4 (2) Unlawful manufacture or delivery of a controlled substance within
5 1,000 feet of a school is a Class A felony.

6 (3) This section does not apply to:

7 (a) A licensee or licensee representative, as those terms are defined in
8 **ORS 475B.015 and section 1 of this 2020 Act**, that is engaged in lawful ac-
9 tivities; or

10 (b) A person acting within the scope of and in compliance with ORS
11 475B.301.

12 **SECTION 41.** ORS 475.906 is amended to read:

13 475.906. Except as authorized by ORS 475.005 to 475.285 and 475.752 to
14 475.980, it is unlawful for any person to deliver a controlled substance to a
15 person under 18 years of age. Any person who violates this section with re-
16 spect to:

17 (1) A controlled substance in Schedule I or II, is guilty of a Class A
18 felony, **except as otherwise provided in section 35 of this 2020 Act.**

19 (2) A controlled substance in Schedule III, is guilty of a Class B felony.

20 (3) A controlled substance in Schedule IV, is guilty of a Class A
21 misdemeanor.

22 (4) A controlled substance in Schedule V, is guilty of a Class B
23 misdemeanor.

24
25 **DATES**

26
27 **SECTION 42.** (1) **The Oregon Health Authority shall establish the**
28 **Oregon Psilocybin Services Program no later than December 31, 2021.**

29 (2) **The Oregon Health Authority may take any action after the ef-**
30 **fective date of this 2020 Act that is necessary to enable the authority**
31 **to exercise all of the duties, powers and functions conferred on the**

1 authority by sections 1 to 37 of this 2020 Act.

2 **SECTION 43.** The unit and section captions used in this 2019 Act
3 are provided only for the convenience of the reader and do not become
4 part of the statutory law of this state or express any legislative intent
5 in the enactment of this 2019 Act.

6
