

OREGON CRIMEFIGHTING ACT

Section 1. This Act shall be known as the Oregon Crimefighting Act.

Section 2. a. Any person who is convicted of a major felony sex crime, who has one (or more) previous conviction of a major felony sex crime, shall be imprisoned for a mandatory minimum term of 25 years.

b. "Major felony sex crime" means rape in the first degree (ORS 163.375), sodomy in the first degree (ORS 163.405), unlawful sexual penetration in the first degree (ORS 163.411), or using a child in a display of sexually explicit conduct (ORS 163.670).

c. "Previous conviction" includes a conviction for the statutory counterpart of a major felony sex crime in any jurisdiction, and includes a conviction in the same sentencing proceeding if the conviction is for a separate criminal episode as defined in ORS 131.505.

Section 3. a. Driving under the influence of intoxicants (ORS 813.010) shall be a class C felony if the defendant has been convicted of driving under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction, at least two times in the 10 years prior to the date of the current offense.

b. Once a person has been sentenced for a class C felony under this section, the 10-year time limitation is eliminated and any subsequent episode of driving under the influence of intoxicants shall be a class C felony regardless of the amount of time which intervenes.

c. Upon conviction for a class C felony under this section, the person shall be sentenced to a mandatory minimum term of incarceration of 90 days, without reduction for any reason.

d. The state shall fully reimburse any county for the county's costs of incarceration, including any pretrial incarceration, for a person sentenced under this section.

Section 4. In order to reduce abuse of the system currently in place, the people hereby replace the "Medical Marijuana Act" with the following Marijuana Derivative and Synthetic Cannabinoid Prescription Program.

a. Cesamet and Marinol are synthetic cannabinoids which are approved by the Food and Drug Administration for treating loss of appetite and for treating nausea.

b. The provisions of this Section, relating to Cesamet and Marinol use, may be expanded to include other drugs approved by the Food and Drug Administration that include cannabinoids, their derivatives, or synthetic cannabinoids, if such drugs are to be used for treatment of diagnosed debilitating medical conditions covered by this Section. Such extension shall be by way of rules established by the Department of Human Services, which is authorized to make such rules.

c. When an attending physician determines that a patient will likely benefit from use of prescribed Cesamet or Marinol for a diagnosed debilitating medical condition, so as to prevent or mollify decreased appetite or severe nausea, or for control of intractable pain or other symptoms of the condition, and the patient does not have health insurance which covers all or part of the cost of such medication, the patient may apply to the Department of Human Services for provision of the cost which is not covered by insurance. The Department of Human Services shall promptly process the application and, upon confirming that the application meets the requirements of this Act, shall pay or reimburse the amount necessary to ensure the delivery of Cesamet or Marinol to the patient.

d. The Department of Human Services shall establish rules for carrying out this Program. The Department may use the Oregon Health Plan as a process for carrying out this Program, if the Department finds this will be efficacious. The Department may consult with a medical doctor as to the appropriateness of any prescription for which an application for coverage is presented to the Department. The Department may, in its discretion, request an

independent medical exam, by a medical doctor chosen by and paid for by the Department, in determining the validity of an application.

e. The purpose of this Program is to ensure the availability of Cesamet and Marinol to patients who need such medication, regardless of coverage by health insurance. Because this is a benefit for Oregonians, at the expense of Oregon's government, no patient is eligible for participation in the Marijuana Derivative and Synthetic Cannabinoid Prescription Program unless the patient has been a legal resident of Oregon for at least one continuous year immediately preceding application for coverage under the Program.

f. The attending physician shall monitor the patient's use of Cesamet or Marinol on the same basis as other controlled substances.

g. For purposes of this section:

i. "Attending physician" means a Doctor of Medicine or Doctor of Osteopathy licensed in Oregon under ORS Chapter 677.

ii. "Controlled substance" has the meaning given in ORS 475.005.

iii. "Diagnosed debilitating medical condition" means a condition diagnosed by an attending physician who determines that the condition is cancer; multiple sclerosis; glaucoma; positive status for human immunodeficiency virus or acquired immune deficiency syndrome; or any other condition where the attending physician believes that a prescription for the use of Cesamet or Marinol, or other drug covered by this Section, is a preferred form of treatment or a preferred form of necessary palliative care.

h. ORS 475.300 through ORS 475.346 are repealed upon passage of this Act. Any person who, upon the effective date of this Act, holds a valid registry identification card issued under ORS 475.300 through ORS 475.346, may, through March 31, 2009, rely on the protections of such card, just as if ORS 475.300 through ORS 475.346 remained in effect. The Department of Human Services shall mail letters notifying registry identification cardholders that such cards are ineffective after March 31, 2009.