

Chapter 475

1961 REPLACEMENT PART

Narcotic and Habit-forming Drugs

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CROSS REFERENCES

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| Boats, operating while drugged, 488.160 | Pharmacists and pharmacies, Ch. 689 |
| Deaths to be reported to coroner or medical investigator, 146.030, 146.115, 146.440, 146.990 | Publicizing effects of narcotic drugs, 430.080 |
| Driving while under influence of drugs, 483.992 | Teacher's certificate, revocation or refusal to issue for narcotic violation, 342.060, 342.175 |
| Drugs, poisons, caustics and corrosives, Ch. 453 | Uniform Narcotic Drug Act, Ch. 474 |
| Flying while drugged prohibited, 493.160 | Water skiing or surfboarding while drugged, 488.144 |
| Intercepted telecommunications, use of, 165.540 | 475.010 |
| Juvenile court, jurisdiction over certain children, 419.476 | Exemption of certain drugs, 474.014 |
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475.010 Definitions. As used in this chapter, "narcotic drugs" shall have the meaning provided for such term in ORS 474.010.

[Amended by 1953 c.342 §3; 1957 c.587 §6]

475.020 [Repealed by 1957 c.587 §12]

475.030 [Repealed by 1957 c.587 §12]

475.040 [Repealed by 1957 c.587 §12]

475.050 [Repealed by 1957 c.587 §12]

475.060 [Repealed by 1957 c.587 §12]

475.070 Causing narcotic drug addiction. Any person not authorized by law to manufacture, sell, prescribe or use narcotic drugs professionally, who causes or conspires to cause or knowingly contributes to the causing of narcotic drug addiction in any person, shall be punished, upon conviction, by imprisonment in the penitentiary for not more than 10 years.

[Amended by 1961 c.648 §12]

475.080 [Repealed by 1959 c.411 §22]

475.090 Furnishing inmates with alcoholic beverages or drugs. (1) Except as provided in subsection (2) of this section, no person shall bring, send or otherwise introduce into the penitentiary, any penitentiary road camp or forest camp of which the warden of the penitentiary has custody, or penitentiary farm or annex, or any other penal or correctional institution of this state, or any state hospital, or any county jail, county hospital, city jail or city hospital, or any prison camp, prison farm or any other place where inmates or prisoners are in the custody of officers or employees of the state or of any of the political subdivisions thereof, any drug or alcoholic beverage in any form, for the use of any such inmate or prisoner, without being authorized so to do by the rules governing such institution or place or by specific authorization of the person in charge of such institution or place.

(2) Subsection (1) of this section does not apply to a physician or dentist, licensed to practice in this state, acting in good faith and in the course of his professional practice.

[Amended by 1953 c.543 §3; 1957 c.587 §7]

475.100 Sale of certain drugs without prescription prohibited; penalty; preservation and inspection of prescriptions. (1) Except as provided in ORS 475.110, no person, firm or corporation shall sell, give away, barter, exchange or distribute amobarbital (5-ethyl-5-isoamylbarbituric acid), phenobarbital (5,5-ethyl, phenyl barbituric acid),

acid diethylbarbituric, any salts, derivatives, or compounds of the foregoing substances, any preparation or compound containing any of the foregoing substances or their salts, derivatives or compounds, or any registered, trade-marked or copyrighted preparation or compound registered in the United States Patent Office containing more than four grains to the avoirdupois or fluid ounce of the foregoing substances, except:

(a) Upon a written prescription of a practitioner licensed by law to administer such drug; or

(b) Upon an oral prescription of a practitioner licensed to administer such drug which is reduced promptly to writing and filed by the pharmacist; or

(c) By refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist.

(2) Every prescription or order required by subsection (1) of this section shall be at all times open to inspection by duly authorized officers of the law and shall be preserved for at least three years from the date of filing thereof.

(3) No person shall wilfully make any false statement in any prescription, order, report or record required by this section; or, by fraud, deceit, misrepresentation or subterfuge, obtain or attempt to obtain any drug listed in subsection (1) of this section or the administration of any drug listed therein.

[Amended by 1953 c.396 §2; 1957 c.587 §8]

475.110 When ORS 475.100 not applicable. ORS 475.100 does not apply:

(1) To the sale at wholesale by drug jobbers, wholesalers and manufacturers to pharmacies, or to physicians, dentists or veterinary surgeons, or to each other. For the purpose of this subsection, a pharmacy includes every store or shop where drugs, medicine or chemicals are dispensed or sold at retail, or where prescriptions are compounded, which has upon it or as a sign, the words "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drug store," "drugs," or any of these words, or the characteristic show bottles or globes, either colored or filled with colored liquids.

(2) To the sale at retail in pharmacies by pharmacists to each other or to physicians and surgeons, dentists or veterinary

surgeons licensed to practice in this state.
[Amended by 1953 c.396 §2]

475.120 Seizure and forfeiture of conveyances used in transporting or possessing narcotics. (1) Any district attorney, sheriff, deputy sheriff, constable or police officer charged with the enforcement of this chapter, having personal knowledge or reasonable information that narcotic drugs are being unlawfully carried or transported or possessed by any boat, vehicle or other conveyance, shall search the same without warrant and without any affidavit being filed. If he finds upon or in such conveyance, narcotic drugs unlawfully carried, transported or possessed, he shall seize them, arrest any person in charge of such conveyance and as soon as possible take the arrested person and the seized drugs before any court in the county in which the seizure is made. He shall also, without delay, make and file a complaint for such violation as the evidence justifies.

(2) Any such conveyance used by or with the knowledge of the owner or the person operating or in charge thereof in the unlawful transportation, or unlawful possession or concealment, of narcotic drugs within this state shall be forfeited to the state in the same manner, by the same procedure and with like effect as provided in ORS 471.660 and 471.665 for the forfeiture of conveyances used in unlawfully handling liquor.

475.130 [Repealed by 1957 c.587 §12]

475.140 [Repealed by 1957 c.587 §12]

475.150 Funds and officers available to enforce the narcotic laws; officers immune from prosecution under law. (1) All special funds provided by law for enforcement of the liquor laws of this state are available, under the direction of the Governor, for the enforcement of the laws of this state regulating or prohibiting the sale and use of narcotic drugs.

(2) All officers, agents and inspectors authorized by law to enforce the liquor laws of this state, shall likewise enforce the laws of this state regulating or prohibiting the sale or use of narcotic drugs.

(3) All duly authorized peace officers, agents and inspectors, while investigating violations of the laws of this state regulating or prohibiting the sale and use of narcotic drugs in the performance of their official duties, and persons working under their

immediate direction, supervision or instruction, are immune from prosecution under those laws.

[Amended by 1959 c.411 §1]

475.160 Applicability of liquor laws setting apart funds for enforcement. Any provision by law for setting apart for law enforcement funds, fines collected for violation of the liquor laws of this state, unless otherwise provided therein, applies in like manner and in like proportions to fines collected for violation of the laws of this state regulating or prohibiting the sale of narcotic drugs. The maximum amounts of such funds shall be as fixed in the laws providing for funds to enforce liquor laws.

475.170 to 475.600 [Reserved for expansion]

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

475.615 Definitions for ORS 475.615 to 475.705. As used in ORS 475.615 to 475.705, unless the context requires otherwise:

(1) "Dispense" includes sell, exchange, leave with, give away, deliver or in any manner relinquish possession to another.

(2) "Physician" means a person licensed by the State Board of Medical Examiners. [1959 c.411 §3 (enacted in lieu of ORS 475.610)]

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

475.625 Addiction to or use of narcotic drugs prohibited; proof of specific drug used not required. (1) No person shall be addicted to the use of narcotic drugs, nor shall a person use narcotic drugs or be in this state while under the influence of narcotic drugs, except when administered or dispensed by or under the direction of a person authorized by law to prescribe and administer narcotic drugs to human beings.

(2) In any complaint, information or indictment, and in any action or proceeding brought for the enforcement of subsection (1) of this section, it is not necessary to allege or prove what specific narcotic drug the defendant used, or was under the influence of, or addicted to the use of, in order to establish a prima facie case. Evidence that the specific drug used is not within the definition of narcotic drugs in ORS 474.010 is a defense.

[1959 c.411 §5 (enacted in lieu of ORS 475.620)]

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

475.635 Criminal penalty; probation; minimum period of imprisonment. A person violating ORS 475.625 is guilty of a misdemeanor and shall be sentenced upon conviction to serve a term of not less than 90 days nor more than one year in the county jail. The court may place that person on probation for a period not to exceed five years and shall in all cases in which probation is granted require that the person be confined in the county jail for at least 90 days. Except as provided in subsection (2) of ORS 475.645, no person who violates ORS 475.625 shall be absolved from the obligation of at least 90 days' confinement in the county jail.

[1959 c.411 §11 (enacted in lieu of ORS 475.650)]

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

475.645 Hospital treatment facilities; hospitalization in lieu of imprisonment. (1) The Mental Health Division of the State Board of Control shall establish facilities at one or more state hospitals for persons convicted of violating ORS 475.625, who are in need of temporary hospitalization because of sickness while withdrawing from addiction. When a person recovers from withdrawal sickness he shall be released to the sheriff of the county in which he was convicted. However, if the superintendent of the state hospital finds that the person may be substantially benefited by further treatment, he may request the court, in writing, for an order directing that person to remain at the hospital for an additional period, not to exceed six months, before being released.

(2) The sentence of imprisonment under ORS 475.635 may be reduced by the number of days a person is hospitalized, for the same offense, under subsection (1) of this section.

[1959 c.411 §21 (enacted in lieu of ORS 475.700)]

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

475.655 Warrant of detention of drug user. Whenever a district attorney has good cause to believe that a person in his county is unlawfully using, under the influence of, or addicted to the use of narcotic drugs, he may file with the circuit court a written request for a warrant of detention of that person. When the person is taken into custody upon the warrant, the district attorney shall immediately notify the county health officer, or a physician appointed by the

State Health Officer under subsection (1) of ORS 475.685, who shall examine the person and make a report to the district attorney of his findings. The report shall also be made available to the person examined and shall be admissible against him in any subsequent judicial proceeding under ORS 475.625. No person shall remain in custody longer than 48 hours under the warrant of detention.

[1959 c.411 §7 (enacted in lieu of ORS 475.630)]

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

475.665 Tests on suspected drug users; use of results in evidence. (1) When a person is arrested for violation of ORS 475.625, or is arrested upon another charge and is suspected of violating that section, the officer or person making the arrest may, upon the written consent of the arrested person, have a city or county health officer, or a physician appointed by the State Health Officer, administer a test to determine by use of an opiate or synthetic antinarcotic whether the arrested person is using or is under the influence of narcotic drugs. Results of the test shall be made available to the person tested and in a subsequent trial of that person, and upon the request of either party, the court may admit those results in evidence. Refusal of the arrested person to consent to the test at the time of his arrest is not admissible in evidence upon his trial.

(2) The health officer or physician examining a person detained under ORS 475.655, upon the written consent of that person, may administer a test to determine by use of an opiate or synthetic antinarcotic whether the person is using or is under the influence of narcotic drugs. Results of the test shall be included in the findings of the health officer or physician, but a refusal of the detained person to consent to the test shall be excluded.

(3) Nothing in this section is intended to limit the introduction of other evidence bearing upon the question of whether or not a person is using or is under the influence of narcotic drugs.

[1959 c.411 §9 (enacted in lieu of ORS 475.640)]

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

475.675 Requiring person on parole or probation to submit to periodic tests. (1) When a court in this state grants probation to a person whom the court has good cause

to believe is or has been an unlawful user of narcotic drugs, the court may require as a condition to probation that the probationer consent to undergo periodic tests by a city or county health officer, or by a physician appointed by the State Health Officer, to determine by use of an opiate or synthetic antinarcotic whether the probationer is using or is under the influence of narcotic drugs.

(2) When the State Board of Parole and Probation grants a parole to a person whom the board has good cause to believe is or has been an unlawful user of narcotic drugs, a condition of the parole shall be that the parolee consent to undergo periodic tests as provided in subsection (1) of this section. [1959 c.411 §13 (enacted in lieu of ORS 475.660)]

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

475.685 Appointment of physicians to administer tests; instruction; providing forms. (1) The State Health Officer shall appoint physicians, in localities where needed, to assist city and county health officers in administration of tests under ORS 475.665 and 475.675, and shall instruct the physicians and health officers in the method of administering these tests.

(2) The State Health Officer shall provide the forms for the reports and written consent required by ORS 475.695. [1959 c. 411 §17 (enacted in lieu of ORS 475.680)]

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

475.695 Persons authorized to make examinations and administer tests; administering tests and reporting results; testing only upon written consent. City and county health officers, and physicians appointed by the State Health Officer under ORS 475.685, shall make physical examinations under ORS 475.655, and shall administer tests under ORS 475.665 and 475.675. If the person tested has been placed under arrest or is de-

tained under warrant, the test shall be administered promptly and the results reported without delay to the person who requested it. If the person tested is a probationer or parolee, results shall be reported to the probation officer. A person shall be tested only upon his written consent.

[1959 c.411 §19 (enacted in lieu of ORS 475.690)]

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

475.705 Charging cost of administering test. The cost of administering tests under subsections (1) and (2) of ORS 475.665 and subsection (1) of ORS 475.675 shall be charged to the county. The cost of administering tests under subsection (2) of ORS 475.675 shall be charged to the state.

[1959 c.411 §15 (enacted in lieu of ORS 475.670)]

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

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

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

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

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

475.760 to 475.980 [Reserved for expansion]

475.990 Penalties. (1) Violation of ORS 475.090 is punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment in the state penitentiary for not more than five years, or both.

(2) Violation of subsection (1) or (2) of ORS 475.100 is punishable, upon conviction, by a fine not exceeding \$200 or by imprisonment in the county jail not exceeding six months, or both.

(3) Violation of subsection (3) of ORS 475.100 is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail not to exceed one year, or both.

[1957 c.587 §11]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on December 1, 1961.

Sam R. Haley
Legislative Counsel

