

Chapter 475

1971 REPLACEMENT PART

Narcotic and Dangerous Drugs

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|----------------|--|----------------|---|
| 475.010 | Definitions | 475.675 | Periodic tests for drug use as a condition of probation or parole |
| 475.100 | Sale or possession of dangerous drugs without prescription prohibited; preservation and inspection of prescriptions | 475.685 | Appointment of physicians to administer tests; instruction; providing forms |
| 475.110 | When ORS 475.100 not applicable | 475.695 | Persons authorized to make examinations and administer tests; administering tests and reporting results; testing only upon written consent |
| 475.150 | Funds and officers available to enforce the narcotic laws; officers immune from prosecution under law | 475.705 | Costs of tests to be paid by state |
| 475.160 | Applicability of liquor laws setting apart funds for enforcement | 475.715 | Treatment program established by the Mental Health Division; contracts for program; rules |
| 475.615 | Definitions for ORS 475.615 to 475.705 | 475.725 | Nonapplicability of narcotic drug laws to certain persons in treatment program |
| 475.645 | Hospital treatment facilities; hospitalization credited on sentence | 475.990 | Penalties |
| 475.655 | Warrant of detention of drug user | | |
| 475.665 | Tests on suspected drug users; use of results in evidence | | |

CROSS REFERENCES

- | | |
|---|---|
| Airplane, operating while under influence of drugs, 493.160 | Narcotics, criminal offenses, 167.202 to 167.252 |
| Alcohol and Drug Education Committee, 430.080 | Pharmacists and pharmacies, Ch. 639 |
| Boats, operating while under influence of drugs, 488.160 | Publicizing effects of narcotic drugs, 430.080 |
| Commitment of addicts, Ch. 426 | Seizure and sale of vehicle used in violation, 471.665 |
| Deaths or injuries to be reported to medical investigator, Ch. 146 | Snowmobiles, operation of, while under influence of dangerous drugs or narcotic drugs, 483.730 |
| Drugs, dangerous, criminal offenses, 167.202 to 167.252 | Teacher's certificate, revocation or refusal to issue for narcotic violation, 342.175 |
| Intercepted telecommunications, use of, 165.540 | Uniform Narcotic Drug Act, Ch. 474 |
| Juvenile court, jurisdiction over certain children, 419.476 | Water skiing or surfboarding while under influence of drugs, 488.144 |
| Local mental health services, 430.610 to 430.660 | 475.010 |
| Motor vehicle, operating while under influence of drugs, 483.992 | Exemption of certain drugs, 474.014 |
| | 475.160 |
| | Liquor funds used for enforcement, 471.670 |

475.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Dangerous drug" means:

(a) Amobarbital, secobarbital, pentobarbital, phenobarbital, acid diethylbarbituric, amphetamine, dextroamphetamine, mephentermine, methamphetamine, phenmetrazine, methylphenidate hydrochloride, glutethimide, methyprylon, meprobamate, chlordiazepoxide HCL, diazepam, oxazepam, chloral hydrate, paraldehyde, ethchlorvynol and ethinamate, any salts, derivates or compounds of the foregoing substances, any preparations 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 any of the foregoing substances; and

(b) All products containing the substances lysergic acid dithylamide, psilocybin, dimethyltryptamine, methyltryptamine, peyote and mescaline; and

(c) Any other drug designated by the Drug Advisory Council as a dangerous drug and included in published regulations of the State Board of Pharmacy under ORS 689.620.

(2) "Licensed medical practitioner," "pharmacist," "pharmacy" and "prescription" have the meaning provided for those terms in ORS 689.010.

(3) "Narcotic drugs" and "veterinarian" have the meaning provided for those terms in ORS 474.010.

[Amended by 1953 c.342 §3; 1957 c.587 §6; 1965 c.545 §1; 1971 c.743 §378]

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 [Amended by 1961 c.648 §12; repealed by 1971 c.743 §432]

475.080 [Repealed by 1959 c.411 §22]

475.090 [Amended by 1953 c.543 §3; 1957 c.587 §7; repealed by 1971 c.743 §432]

475.100 Sale or possession of dangerous drugs without prescription prohibited; preservation and inspection of prescriptions.

(1) Except as provided in ORS 475.110, no person shall sell, give away, barter, distribute, buy, receive or possess a dangerous drug 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 the 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; or

(d) Without prescription if such drug is combined with one or more additional ingredients that prevent ingestion of an amount of such drug sufficient to cause a stimulating or hypnotic effect upon the central nervous system and if for this reason the combination may be sold without prescription under federal law.

(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.

[Amended by 1953 c.396 §2; 1957 c.587 §8; 1963 c.229 §1; 1965 c.15 §1; 1965 c.545 §2; 1971 c.743 §379]

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

(1) To sales by drug wholesalers and manufacturers to pharmacies, or to licensed medical practitioners and veterinarians, or to sales by drug wholesalers and manufacturers to each other made within the scope of the lawful conduct of their business.

(2) To sales by pharmacists to each other or to licensed medical practitioners and veterinarians when the sale or other transaction is made within the scope of the lawful practice of their profession.

[Amended by 1953 c.396 §2; 1965 c.545 §3; 1971 c.743 §379a]

475.120 [Repealed by 1971 c.743 §432]

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 for the enforcement of the laws of this state regulating or prohibiting the sale and use of narcotic or dangerous 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 or dangerous 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 or dangerous 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; 1971 c.418 §14]

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.

475.610 [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 [1959 c.411 §5 (enacted in lieu of 475.620); 1963 c.137 §2; 1969 c.310 §2; repealed by 1971 c.743 §432]

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

475.635 [1959 c.411 §11 (enacted in lieu of 475.650); 1969 c.310 §3; repealed by 1971 c.743 §432]

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 credited on sentence. (1) The Mental Health Division shall establish facilities at one or more state hospitals for persons convicted of violating ORS 167.217, 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 chief medical officer of the state hospital finds that the person may be substantially benefited by further treatment and notifies the superintendent of the state hospital of his finding, the superintendent 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 167.217 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 475.700); 1969 c.391 §15; 1971 c.743 §380]

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, or under the influence 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 167.217. No person shall remain in custody longer than 48 hours under the warrant of detention.

[1959 c.411 §7 (enacted in lieu of 475.630); 1963 c.137 §3; 1971 c.743 §381]

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 167.217, 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 475.640); 1971 c.743 §382]

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

475.675 Periodic tests for drug use as a condition of probation or parole. (1) When a court in this state grants probation to a person whom the court has good cause to believe is or has been a drug addict or an unlawful user of narcotic drugs or places on parole a drug addict or an unlawful user of narcotic drugs, the court may require as a condition to probation or parole that the probationer or parolee consent to undergo periodic tests by the Mental Health Division or by agencies designated by the division, to determine whether the probationer or parolee is using or is under the influence of narcotic or dangerous 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 a drug addict or 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 475.660); 1969 c.638 §2]

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 detained 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 Costs of tests to be paid by state. The cost of administering tests under ORS 475.665 and 475.675 shall be charged to the state and shall be paid from funds appropriated to the Mental Health Division for this purpose.

[1959 c.411 §15 (enacted in lieu of 475.670); 1969 c.638 §3]

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

475.715 Treatment program established by the Mental Health Division; contracts for program; rules. (1) The Mental Health Division shall establish for persons dependent on narcotic drugs a treatment program that involves the supplying of synthetic narcotic drugs to such persons under close supervision and control.

(2) In establishing the program authorized by subsection (1) of this section, the

Mental Health Division may enter into contracts with physicians licensed by the Board of Medical Examiners for the State of Oregon, with licensed pharmacies and with any agency of this state or a political subdivision in this state to conduct the required examinations and to supply the synthetic narcotics used in the program.

(3) The Mental Health Division shall establish rules of eligibility for the program authorized by ORS 430.107, 475.725 and this section, considering such factors as residency, duration of drug dependency, failure of previous attempts at abstinence and other relevant factors. The division shall establish reasonable fees for participation in the program.

(4) Pursuant to ORS 183.310 to 183.500, the Mental Health Division shall adopt rules governing the administration of the program authorized by ORS 430.107, 475.725 and this section.

[1969 c.442 §1]

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

475.725 Nonapplicability of narcotic drug laws to certain persons in treatment program. The provisions of any law restricting the use, possession, control or administration of narcotic drugs shall not apply to any physician, pharmacist or other person

while he is participating in the program authorized by ORS 475.715 so long as he complies with provisions of ORS 430.107, 475.715 and this section and the rules of the Mental Health Division made pursuant to ORS 430.107, 475.715 and this section.

[1969 c.442 §2]

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 \$5,000 or by imprisonment in the county jail not exceeding one year, or both, or by imprisonment in the penitentiary not exceeding 10 years, or by a fine of not more than \$5,000, 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; 1969 c.310 §4]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1971.

Robert W. Lundy
Legislative Counsel

