

Senate Bill 348

Sponsored by Senator PROZANSKI (at the request of Living Tree Paper Company) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits production and possession of industrial hemp and trade in industrial hemp commodities and products. Authorizes State Department of Agriculture to administer licensing, permitting and inspection program for growers and handlers of industrial hemp. Allows department to charge fees to growers and handlers. Continuously appropriates fee moneys to department. Allows department to impose civil penalty not exceeding \$2,500 for violation of license or permit requirements.

A BILL FOR AN ACT

1
2 Relating to industrial hemp; creating new provisions; amending ORS 475.005 and 561.144; and ap-
3 propriating money.

4 Whereas the Cannabis sativa plant used for the production of industrial hemp is separate and
5 distinct from forms of Cannabis used to produce marijuana; and

6 Whereas industrial hemp is used for products such as building materials, cloth, cordage, fiber,
7 food, floor coverings, fuel, industrial chemicals, paint, paper, particle board, plastics, seed meal, seed
8 oil and yarn; now, therefore,

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

SECTION 1. As used in sections 1 to 3 of this 2007 Act:

11 (1) **"Agricultural hemp seed" means Cannabis sativa seed that meets any labeling, quality
12 and other standards set by the Director of Agriculture and that is intended for sale or is sold
13 to, or purchased by, licensed growers for planting.**

14 (2) **"Crop" means any contiguous field of industrial hemp grown under a single license.**

15 (3) **"Grower" means a person, joint venture or cooperative that produces industrial hemp.**

16 (4) **"Handler" means a person, joint venture or cooperative that receives industrial hemp
17 for processing into commodities, products or agricultural hemp seed.**

18 (5) **"Industrial hemp":**

19 (a) **Means all nonseed parts and varieties of the Cannabis sativa plant, whether growing
20 or not, that contain a cropwide average tetrahydrocannabinol concentration that does not
21 exceed one percent on a dry weight basis.**

22 (b) **Means any Cannabis sativa seed that:**

23 (A) **Is part of a growing crop;**

24 (B) **Is retained by a grower for future planting; or**

25 (C) **Is for processing into, or use as, agricultural hemp seed.**

26 (c) **Does not mean industrial hemp commodities or products.**

27 **SECTION 2. (1) Industrial hemp production and possession, and commerce in industrial
28 hemp commodities and products, are authorized in this state. Industrial hemp is an agricul-
29 tural product that is subject to regulation by the State Department of Agriculture.**

30 (2) **All growers and handlers must have an industrial hemp license issued by the depart-**

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 ment. Growers and handlers engaged in the production of agricultural hemp seed must also
2 have a production permit described in subsection (6) of this section.

3 (3) Every grower or handler must keep records as required by department rule. Upon not
4 fewer than three days' notice, the department may subject the required records to inspection
5 or audit during normal business hours. The department may make an inspection or audit for
6 the purpose of ensuring compliance with:

7 (a) A provision of this section;

8 (b) Department rules;

9 (c) Industrial hemp license or agricultural hemp seed production permit requirements,
10 terms or conditions; or

11 (d) A final department order directed to the grower's or handler's industrial hemp oper-
12 ations or activities.

13 (4) In addition to any inspection conducted pursuant to ORS 561.275, the department may
14 inspect any industrial hemp crop during the crop's growth phase and take a representative
15 composite sample for field analysis. If a crop contains an average tetrahydrocannabinol
16 concentration exceeding one percent on a dry weight basis, the department may detain, seize
17 or embargo the crop as provided under ORS 561.605 to 561.620.

18 (5) Subject to department guidelines, a grower may retain seeds from each industrial
19 hemp crop to ensure a sufficient supply of seeds for that grower for the following year. A
20 grower retaining seeds for future planting does not need an agricultural hemp seed pro-
21 duction permit described in subsection (6) of this section. Seed retained by a grower may not
22 be sold or transferred and does not need to meet the department's agricultural hemp seed
23 standards.

24 (6) The department may issue agricultural hemp seed production permits to allow
25 growers and handlers to produce agricultural hemp seed. A seller of agricultural hemp seed
26 shall ensure that the seed complies with any standards set by the Director of Agriculture
27 under ORS 633.511 to 633.750. The department shall make available to growers information
28 that identifies sellers of agricultural hemp seed.

29 (7) The department may charge growers and handlers reasonable fees as determined by
30 the department. Moneys from fees charged under this subsection shall be deposited to the
31 Department of Agriculture Service Fund and are continuously appropriated to the depart-
32 ment for purposes of carrying out the duties of the department under this section and sec-
33 tion 3 of this 2007 Act.

34 **SECTION 3.** (1) In addition to any other liability or penalty provided by law, the State
35 Department of Agriculture may revoke or refuse to issue or renew an industrial hemp li-
36 cense or an agricultural hemp seed production permit and may impose a civil penalty for
37 violation of:

38 (a) A license or permit requirement;

39 (b) License or permit terms or conditions;

40 (c) Department rules relating to growing or handling industrial hemp; or

41 (d) A final order of the department that is specifically directed to the grower's or han-
42 dler's industrial hemp operations or activities.

43 (2) The department may not impose a civil penalty under this section that exceeds \$2,500.
44 The department shall impose civil penalties under this section in the manner provided by
45 ORS 183.745.

1 **(3) The department may revoke or refuse to issue or renew an industrial hemp license**
 2 **or an agricultural hemp seed production permit for violation of any rule of the department**
 3 **that pertains to agricultural operations or activities other than industrial hemp growing or**
 4 **handling.**

5 **(4) A revocation of, or refusal to issue or renew, an industrial hemp license or an agri-**
 6 **cultural hemp seed production permit is subject to ORS chapter 183.**

7 **SECTION 4.** ORS 475.005 is amended to read:

8 475.005. As used in ORS 475.005 to 475.285 and 475.840 to 475.980, unless the context requires
 9 otherwise:

10 (1) “Abuse” means the repetitive excessive use of a drug short of dependence, without legal or
 11 medical supervision, which may have a detrimental effect on the individual or society.

12 (2) “Administer” means the direct application of a controlled substance, whether by injection,
 13 inhalation, ingestion or any other means, to the body of a patient or research subject by:

14 (a) A practitioner or an authorized agent thereof; or

15 (b) The patient or research subject at the direction of the practitioner.

16 (3) “Administration” means the Drug Enforcement Administration of the United States Depart-
 17 ment of Justice, or its successor agency.

18 (4) “Agent” means an authorized person who acts on behalf of or at the direction of a man-
 19 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public
 20 warehouseman or employee of the carrier or warehouseman.

21 (5) “Board” means the State Board of Pharmacy.

22 (6) “Controlled substance”:

23 **(a)** Means a drug or its immediate precursor classified in Schedules I through V under the fed-
 24 eral Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the
 25 term “precursor” in this [subsection] **paragraph** does not control and is not controlled by the use
 26 of the term “precursor” in ORS 475.840 to 475.980.

27 **(b) Does not mean industrial hemp as defined in section 2 of this 2007 Act, or industrial**
 28 **hemp commodities or products.**

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

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

36 (9) “Device” means instruments, apparatus or contrivances, including their components, parts
 37 or accessories, intended:

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

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

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

44 (11) “Dispenser” means a practitioner who dispenses.

45 (12) “Distributor” means a person who delivers.

- 1 (13) “Drug” means:
- 2 (a) Substances recognized as drugs in the official United States Pharmacopoeia, official
3 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement
4 to any of them;
- 5 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of
6 disease in humans or animals;
- 7 (c) Substances (other than food) intended to affect the structure or any function of the body of
8 humans or animals; and
- 9 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or
10 (c) of this subsection; however, the term does not include devices or their components, parts or ac-
11 cessories.
- 12 (14) “Electronically transmitted” or “electronic transmission” means a communication sent or
13 received through technological apparatuses, including computer terminals or other equipment or
14 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
15 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
- 16 (15) “Manufacture” means the production, preparation, propagation, compounding, conversion
17 or processing of a controlled substance, either directly or indirectly by extraction from substances
18 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
19 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
20 relabeling of its container, except that this term does not include the preparation or compounding
21 of a controlled substance:
- 22 (a) By a practitioner as an incident to administering or dispensing of a controlled substance in
23 the course of professional practice; or
- 24 (b) By a practitioner, or by an authorized agent under the practitioner’s supervision, for the
25 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.
- 26 (16) “Marijuana”:
- 27 (a) **Except as provided in this subsection**, means all parts of the plant Cannabis family
28 Moraceae, whether growing or not; the resin extracted from any part of the plant; and every com-
29 pound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin.
- 30 (b) *[It]* Does not include the mature stalks of the plant, fiber produced from the stalks, oil or
31 cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture,
32 or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the
33 sterilized seed of the plant which is incapable of germination.
- 34 (c) **Does not mean industrial hemp, as defined in section 1 of this 2007 Act, or industrial**
35 **hemp commodities or products.**
- 36 (17) “Person” includes a government subdivision or agency, business trust, estate, trust or any
37 other legal entity.
- 38 (18) “Practitioner” means physician, dentist, veterinarian, scientific investigator, certified nurse
39 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law
40 to dispense, conduct research with respect to or to administer a controlled substance in the course
41 of professional practice or research in this state but does not include a pharmacist or a pharmacy.
- 42 (19) “Prescription” means a written, oral or electronically transmitted direction, given by a
43 practitioner for the preparation and use of a drug. When the context requires, “prescription” also
44 means the drug prepared under such written, oral or electronically transmitted direction. Any label
45 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-

1 nently display a warning that the removal thereof is prohibited by law.

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

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

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

10 **SECTION 5.** ORS 561.144 is amended to read:

11 561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund which
12 shall be a trust fund separate and distinct from the General Fund. The State Department of Agri-
13 culture shall deposit all license and service fees paid to it under the provisions of the statutes
14 identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State
15 Treasurer is the custodian of this trust fund which shall be deposited by the treasurer in such de-
16 positories as are authorized to receive deposits of the General Fund, and which may be invested by
17 the treasurer in the same manner as authorized by ORS 293.701 to 293.820.

18 (2) Interest received on deposits credited to the Department of Agriculture Service Fund shall
19 accrue to and become a part of the Department of Agriculture Service Fund.

20 (3) The license and service fees subject to this section are those described in ORS 561.400,
21 570.710, 571.057, 571.063, 571.145, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050, 586.270, 586.580,
22 586.650, 596.030, 596.311, 599.235, 599.269, 599.406, 599.610, 601.040, 602.090, 603.025, 603.075, 616.706,
23 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730, 622.080, 625.180, 628.240,
24 632.211, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015, 633.029, 633.318, 633.362,
25 633.461, 633.471, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126, 634.132, 634.136, 634.212
26 and 635.030 **and section 2 of this 2007 Act.**

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