

A-Engrossed
Senate Bill 676

Ordered by the Senate May 5
Including Senate Amendments dated May 5

Sponsored by Senators PROZANSKI, NELSON

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.

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:**

10 **SECTION 1. As used in sections 1 to 3 of this 2009 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 0.3 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.**

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

4 (2) All growers and handlers must have an industrial hemp license issued by the depart-
5 ment. Growers and handlers engaged in the production of agricultural hemp seed must also
6 have an agricultural hemp seed production permit.

7 (3) An application for an industrial hemp license or agricultural hemp seed production
8 permit must include:

9 (a) The name and address of the applicant;

10 (b) The name and address of the industrial hemp operation of the applicant;

11 (c) The global positioning system coordinates and legal description for the property used
12 for the industrial hemp;

13 (d) If the industrial hemp license or agricultural hemp seed production permit application
14 is by a grower, information sufficient to establish that the industrial hemp crop of the ap-
15 plicant will be at least 2.5 acres in size; and

16 (e) Any other information required by the department by rule.

17 (4) An industrial hemp license or agricultural hemp seed production permit is valid for
18 a three-year term unless revoked and may be renewed as provided by department rule. An
19 industrial hemp license or agricultural hemp seed production permit is a personal privilege
20 that is nontransferable.

21 (5) An agricultural hemp seed production permit authorizes a grower or handler to
22 produce and handle agricultural hemp seed for sale to licensed industrial hemp growers and
23 handlers. A seller of agricultural hemp seed shall ensure that the seed complies with any
24 standards set by the Director of Agriculture under ORS 633.511 to 633.750. The department
25 shall make available to growers information that identifies sellers of agricultural hemp seed.

26 (6) Subject to department guidelines, a grower may retain seed from each industrial
27 hemp crop to ensure a sufficient supply of seed for that grower for the following year. A
28 grower does not need an agricultural hemp seed production permit in order to retain seed
29 for future planting. Seed retained by a grower may not be sold or transferred and does not
30 need to meet the department's agricultural hemp seed standards.

31 (7) Every grower or handler must keep records as required by department rule. Upon not
32 less than three days' notice, the department may subject the required records to inspection
33 or audit during normal business hours. The department may make an inspection or audit for
34 the purpose of ensuring compliance with:

35 (a) A provision of this section;

36 (b) Department rules;

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

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

41 (8) In addition to any inspection conducted pursuant to ORS 561.275, the department may
42 inspect any industrial hemp crop during the crop's growth phase and take a representative
43 composite sample for field analysis. If a crop contains an average tetrahydrocannabinol
44 concentration exceeding 0.3 percent on a dry weight basis, the department may detain, seize
45 or embargo the crop as provided under ORS 561.605 to 561.620.

1 **(9) The department may charge growers and handlers reasonable fees as determined by**
2 **the department. Moneys from fees charged under this subsection shall be deposited to the**
3 **Department of Agriculture Service Fund and are continuously appropriated to the depart-**
4 **ment for purposes of carrying out the duties of the department under this section and sec-**
5 **tion 3 of this 2009 Act.**

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

10 **(a) A license or permit requirement;**

11 **(b) License or permit terms or conditions;**

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

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

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

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

22 **(4) A revocation of, or a refusal to issue or renew, an industrial hemp license or an ag-**
23 **ricultural hemp seed production permit is subject to ORS chapter 183.**

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

25 475.005. As used in ORS 475.005 to 475.285 and 475.840 to 475.980, unless the context requires
26 otherwise:

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

29 (2) "Administer" means the direct application of a controlled substance, whether by injection,
30 inhalation, ingestion or any other means, to the body of a patient or research subject by:

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

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

33 (3) "Administration" means the Drug Enforcement Administration of the United States Depart-
34 ment of Justice, or its successor agency.

35 (4) "Agent" means an authorized person who acts on behalf of or at the direction of a man-
36 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public
37 warehouseman or employee of the carrier or warehouseman.

38 (5) "Board" means the State Board of Pharmacy.

39 (6) "Controlled substance":

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

44 **(b) Does not mean industrial hemp, as defined in section 1 of this 2009 Act, or industrial**
45 **hemp commodities or products.**

1 (7) "Counterfeit substance" means a controlled substance or its container or labeling, which,
2 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number
3 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person
4 who in fact manufactured, delivered or dispensed the substance.

5 (8) "Deliver" or "delivery" means the actual, constructive or attempted transfer, other than by
6 administering or dispensing, from one person to another of a controlled substance, whether or not
7 there is an agency relationship.

8 (9) "Device" means instruments, apparatus or contrivances, including their components, parts
9 or accessories, intended:

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

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

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

16 (11) "Dispenser" means a practitioner who dispenses.

17 (12) "Distributor" means a person who delivers.

18 (13) "Drug" means:

19 (a) Substances recognized as drugs in the official United States Pharmacopoeia, official
20 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement
21 to any of them;

22 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of
23 disease in humans or animals;

24 (c) Substances (other than food) intended to affect the structure or any function of the body of
25 humans or animals; and

26 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or
27 (c) of this subsection; however, the term does not include devices or their components, parts or ac-
28 cessories.

29 (14) "Electronically transmitted" or "electronic transmission" means a communication sent or
30 received through technological apparatuses, including computer terminals or other equipment or
31 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
32 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

33 (15) "Manufacture" means the production, preparation, propagation, compounding, conversion
34 or processing of a controlled substance, either directly or indirectly by extraction from substances
35 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
36 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
37 relabeling of its container, except that this term does not include the preparation or compounding
38 of a controlled substance:

39 (a) By a practitioner as an incident to administering or dispensing of a controlled substance in
40 the course of professional practice; or

41 (b) By a practitioner, or by an authorized agent under the practitioner's supervision, for the
42 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

43 (16) "Marijuana":

44 (a) **Except as provided in this subsection,** means all parts of the plant Cannabis family
45 Moraceae, whether growing or not; the resin extracted from any part of the plant; and every com-

1 pound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin.

2 (b) [It] Does not [include] **mean** the mature stalks of the plant, fiber produced from the stalks,
3 oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative,
4 mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or
5 cake, or the sterilized seed of the plant which is incapable of germination.

6 (c) **Does not mean industrial hemp, as defined in section 1 of this 2009 Act, or industrial**
7 **hemp commodities or products.**

8 (17) "Person" includes a government subdivision or agency, business trust, estate, trust or any
9 other legal entity.

10 (18) "Practitioner" means physician, dentist, veterinarian, scientific investigator, certified nurse
11 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law
12 to dispense, conduct research with respect to or to administer a controlled substance in the course
13 of professional practice or research in this state but does not include a pharmacist or a pharmacy.

14 (19) "Prescription" means a written, oral or electronically transmitted direction, given by a
15 practitioner for the preparation and use of a drug. When the context requires, "prescription" also
16 means the drug prepared under such written, oral or electronically transmitted direction. Any label
17 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-
18 nently display a warning that the removal thereof is prohibited by law.

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

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

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

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

28 561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund, which
29 shall be a trust fund separate and distinct from the General Fund. The State Department of Agri-
30 culture shall deposit all license and service fees paid to it under the provisions of the statutes
31 identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State
32 Treasurer is the custodian of this trust fund, which shall be deposited by the treasurer in such de-
33 positories as are authorized to receive deposits of the General Fund, and which may be invested by
34 the treasurer in the same manner as authorized by ORS 293.701 to 293.820.

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

37 (3) The license and service fees subject to this section are those described in ORS 561.400,
38 561.740, 570.710, 571.057, 571.063, 571.145, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050, 586.270,
39 586.580, 586.650, 596.030, 596.100, 596.311, 599.235, 599.269, 599.406, 599.610, 601.040, 602.090, 603.025,
40 603.075, 616.706, 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730, 622.080,
41 625.180, 628.240, 632.211, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015, 633.029,
42 633.318, 633.362, 633.461, 633.471, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126, 634.132,
43 634.136, 634.212 and 635.030 **and section 2 of this 2009 Act.**

44 **SECTION 6. For the biennium beginning July 1, 2009, the State Department of Agricul-**
45 **ture shall carry out the duties, functions and powers of the department under sections 1 to**

1 **3 of this 2009 Act only to the extent the department determines it to be practicable to carry**
2 **out those duties, functions and powers at no additional cost to the department, using existing**
3 **department resources and without reallocation of department resources.**

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