

# House Bill 2668

Sponsored by Representative BUCKLEY (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**.

Repeals statutes requiring industrial hemp growers and handlers to be licensed by State Department of Agriculture.

Defines "industrial hemp." Clarifies that industrial hemp is agricultural product subject to regulation by department.

## A BILL FOR AN ACT

Relating to industrial hemp; creating new provisions; amending ORS 475.005, 475.864 and 561.144; and repealing ORS 571.300, 571.305 and 571.315.

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

## INDUSTRIAL HEMP

### **SECTION 1. (1) As used in this section:**

(a) "Batch" means any single unit of industrial hemp that has been harvested and processed.

(b) "Crop" means any contiguous field of industrial hemp.

(c) "Industrial hemp" means all parts and varieties of the Cannabis sativa plant, whether growing or not, that contain:

(A) If the plant is not part of a crop or batch, a tetrahydrocannabinol concentration that does not exceed 0.3 percent of the dry weight of the plant;

(B) If the plant is part of a crop, a cropwide average tetrahydrocannabinol concentration that does not exceed 0.3 percent; or

(C) If the plant is part of a batch, a batchwide average tetrahydrocannabinol concentration that does not exceed 0.3 percent.

(2) Industrial hemp is an agricultural product that is subject to regulation by the State Department of Agriculture.

(3) The department shall adopt rules establishing processes for determining:

(a) The concentration of tetrahydrocannabinol in Cannabis sativa plants;

(b) The average concentration of tetrahydrocannabinol in a crop; and

(c) The average concentration of tetrahydrocannabinol in a batch.

## REPEALS

**SECTION 2. ORS 571.300, 571.305 and 571.315 are repealed.**

**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.

CONFORMING AMENDMENTS

**SECTION 3.** ORS 475.005 is amended to read:

475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires otherwise:

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

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

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

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

(3) "Administration" means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.

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

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

(6) "Controlled substance":

(a) Means a drug or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term "precursor" in this paragraph does not control and is not controlled by the use of the term "precursor" in ORS 475.752 to 475.980.

(b) Does not [*mean industrial hemp, as defined in ORS 571.300,*] **include industrial hemp** or industrial hemp commodities or products.

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

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

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

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

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

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

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

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

(13) "Drug" means:

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

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

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

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

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

12 (15) "**Industrial hemp**" has the meaning given that term in section 1 of this 2015 Act.

13 [(15)] (16) "Manufacture" means the production, preparation, propagation, compounding, con-  
14 version or processing of a controlled substance, either directly or indirectly by extraction from  
15 substances of natural origin, or independently by means of chemical synthesis, or by a combination  
16 of extraction and chemical synthesis, and includes any packaging or repackaging of the substance  
17 or labeling or relabeling of its container, except that this term does not include the preparation or  
18 compounding of a controlled substance:

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

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

23 [(16)] (17) "Marijuana":

24 (a) Except as provided in this subsection, means all parts of the plant Cannabis family  
25 Moraceae, whether growing or not; the resin extracted from any part of the plant; and every com-  
26 pound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin.

27 (b) Does not mean the mature stalks of the plant, fiber produced from the stalks, oil or cake  
28 made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or  
29 preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the  
30 sterilized seed of the plant which is incapable of germination.

31 (c) Does not [*mean industrial hemp, as defined in ORS 571.300,*] **include industrial hemp** or  
32 industrial hemp commodities or products.

33 [(17)] (18) "Person" includes a government subdivision or agency, business trust, estate, trust  
34 or any other legal entity.

35 [(18)] (19) "Practitioner" means physician, dentist, veterinarian, scientific investigator, certified  
36 nurse practitioner, physician assistant or other person licensed, registered or otherwise permitted  
37 by law to dispense, conduct research with respect to or to administer a controlled substance in the  
38 course of professional practice or research in this state but does not include a pharmacist or a  
39 pharmacy.

40 [(19)] (20) "Prescription" means a written, oral or electronically transmitted direction, given by  
41 a practitioner for the preparation and use of a drug. When the context requires, "prescription" also  
42 means the drug prepared under such written, oral or electronically transmitted direction. Any label  
43 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-  
44 nently display a warning that the removal thereof is prohibited by law.

45 [(20)] (21) "Production" includes the manufacture, planting, cultivation, growing or harvesting

1 of a controlled substance.

2 [(21)] (22) “Research” means an activity conducted by the person registered with the federal  
 3 Drug Enforcement Administration pursuant to a protocol approved by the United States Food and  
 4 Drug Administration.

5 [(22)] (23) “Ultimate user” means a person who lawfully possesses a controlled substance for the  
 6 use of the person or for the use of a member of the household of the person or for administering to  
 7 an animal owned by the person or by a member of the household of the person.

8 [(23)] (24) “Within 1,000 feet” means a straight line measurement in a radius extending for 1,000  
 9 feet or less in every direction from a specified location or from any point on the boundary line of  
 10 a specified unit of property.

11 **SECTION 4.** ORS 475.864 is amended to read:

12 475.864. (1) As used in this section:

13 (a) “Marijuana” means the leaves, stems and flowers of the plant Cannabis family Moraceae.

14 (b) “Marijuana product” has the meaning given the term “marijuana” in ORS 475.005 [(16)], but  
 15 does not include the leaves, stems and flowers of the plant Cannabis family Moraceae.

16 (2) It is unlawful for any person knowingly or intentionally to possess marijuana or marijuana  
 17 product.

18 (3)(a) Unlawful possession of four avoirdupois ounces or more of marijuana is a Class C felony.

19 (b) Unlawful possession of one avoirdupois ounce of marijuana or more, but less than four  
 20 avoirdupois ounces, is a Class B misdemeanor.

21 (c) Unlawful possession of less than one avoirdupois ounce of marijuana is a specific fine vio-  
 22 lation. The presumptive fine for a violation under this paragraph is \$650.

23 (4)(a) Unlawful possession of one-quarter avoirdupois ounce or more of marijuana product is a  
 24 Class C felony.

25 (b) Unlawful possession of less than one-quarter avoirdupois ounce of marijuana product is a  
 26 Class B misdemeanor.

27 **SECTION 5.** ORS 475.864, as amended by section 79, chapter 1, Oregon Laws 2015, is amended  
 28 to read:

29 475.864. (1) As used in subsections (2) to (4) of this section:

30 (a) “Marijuana” means the leaves, stems[,] and flowers of the plant Cannabis family Moraceae.

31 (b) “Marijuana product” has the meaning given the term “marijuana” in ORS 475.005 [(16)], but  
 32 does not include the leaves, stems and flowers of the plant Cannabis family Moraceae.

33 (2) It is unlawful for any person under 21 years of age knowingly or intentionally to possess  
 34 marijuana or marijuana product.

35 (3)(a) Unlawful possession of four avoirdupois ounces or more of marijuana by a person under  
 36 21 years of age is a Class C felony.

37 (b) Unlawful possession of one avoirdupois ounce of marijuana or more, but less than four  
 38 avoirdupois ounces, by a person under 21 years of age is a Class B misdemeanor.

39 (c) Unlawful possession of less than one avoirdupois ounce of marijuana by a person under 21  
 40 years of age is a specific fine violation. The presumptive fine for a violation under this paragraph  
 41 is \$650.

42 (4)(a) Unlawful possession of one-quarter avoirdupois ounce or more of marijuana product by a  
 43 person under 21 years of age is a Class C felony.

44 (b) Unlawful possession of less than one-quarter avoirdupois ounce of marijuana product by a  
 45 person under 21 years of age is a Class B misdemeanor.

1 (5) As used in subsections (6) to (8) of this section, [*the terms*] “licensee,” “licensee represen-  
 2 tative,” “marijuana,” “marijuana extracts,” “marijuana products,” “marijuana retailer,” “public  
 3 place[.]” and “usable marijuana” have the meanings given [*to them*] **those terms** in section 5,  
 4 **chapter 1, Oregon Laws 2015** [*of this Act*].

5 (6) Except for licensees and licensee representatives, it is unlawful for any person 21 years of  
 6 age or older knowingly or intentionally to possess:

7 (a) More than one ounce of usable marijuana in a public place.

8 (b) More than eight ounces of usable marijuana.

9 (c) More than sixteen ounces of marijuana products in solid form.

10 (d) More than seventy-two ounces of marijuana products in liquid form.

11 (e) More than one ounce of marijuana extracts.

12 (f) Any marijuana extracts that were not purchased from a licensed marijuana retailer.

13 (7) A violation of [*paragraphs (a) to (e) of*] subsection (6)(a) to (e) of this section is a:

14 (a) Class C felony, if the amount possessed is more than four times the applicable maximum  
 15 amount specified in subsection (6) of this section;

16 (b) Class B misdemeanor, if the amount possessed is more than two times, but not more than  
 17 four times, the applicable maximum amount specified in subsection (6) of this section; or

18 (c) Class B violation, if the amount possessed is not more than two times the applicable maxi-  
 19 mum amount specified in subsection (6) of this section.

20 (8) A violation of [*paragraph (f) of*] subsection (6)(f) of this section is a:

21 (a) Class C felony, if the amount possessed is more than one-quarter ounce of such marijuana  
 22 extracts; or

23 (b) Class B misdemeanor, if the amount possessed is not more than one-quarter ounce of such  
 24 marijuana extracts.

25 **SECTION 6.** ORS 561.144 is amended to read:

26 561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund, which  
 27 shall be a trust fund separate and distinct from the General Fund. The State Department of Agri-  
 28 culture shall deposit all license and service fees paid to it under the provisions of the statutes  
 29 identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State  
 30 Treasurer is the custodian of this trust fund, which shall be deposited by the treasurer in such de-  
 31 positories as are authorized to receive deposits of the General Fund, and which may be invested by  
 32 the treasurer in the same manner as authorized by ORS 293.701 to 293.857.

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

35 (3) The license and service fees subject to this section are those described in ORS 561.400,  
 36 561.740, 570.710, 571.057, 571.063, 571.145, [571.305,] 586.270, 596.030, 596.100, 596.311, 599.235,  
 37 599.269, 599.406, 599.610, 601.040, 602.090, 603.025, 603.075, 616.706, 618.115, 618.136, 619.031, 621.072,  
 38 621.166, 621.266, 621.297, 621.335, 621.730, 622.080, 625.180, 628.240, 632.211, 632.600, 632.720, 632.730,  
 39 632.741, 632.940, 632.945, 633.015, 633.029, 633.318, 633.362, 633.461, 633.471, 633.680, 633.700, 633.720,  
 40 634.016, 634.116, 634.122, 634.126, 634.132, 634.136, 634.212 and 635.030.

41  
 42 **UNIT CAPTIONS**

43  
 44 **SECTION 7. The unit captions used in this 2015 Act are provided only for the convenience**  
 45 **of the reader and do not become part of the statutory law of this state or express any leg-**

1 **islative intent in the enactment of this 2015 Act.**

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