

Enrolled House Bill 4060

Sponsored by Representatives WILSON, GOMBERG, HOYLE, LININGER; Representatives BARRETO, KRIEGER, LIVELY, OLSON, STARK, Senators BEYER, FERRIOLI, HANSELL, KRUSE, MONNES ANDERSON, MONROE, PROZANSKI, ROBLAN, STEINER HAYWARD (Pre-session filed.)

CHAPTER

AN ACT

Relating to industrial hemp; creating new provisions; amending ORS 475B.005, 571.300, 571.305 and 571.315; and declaring an emergency.

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

DEFINITIONS

SECTION 1. ORS 571.300 is amended to read:

571.300. As used in ORS 571.300 to 571.315:

(1) "Agricultural hemp seed" means Cannabis [*sativa*] seed:

[(a) That meets any labeling, quality and other standards set by the Director of Agriculture and that is intended for sale or is sold to, or purchased by, licensed growers for planting; or]

[(b) That is not intended for planting, but remains in an unprocessed or partially processed condition capable of germination.]

(a) That is sold to or intended to be sold to registered growers for planting; or

(b) That remains in an unprocessed or partially processed condition that is capable of germination.

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

(2) "Crop" means industrial hemp grown under a single registration.

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

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

(5) "Industrial hemp":

(a) Means all nonseed parts and varieties of the Cannabis [*sativa*] plant, whether growing or not, that contain [*a cropwide*] **an** average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(b) Means any Cannabis [*sativa*] seed [*that*]:

(A) **That** is part of a [*growing*] crop;

(B) **That** is retained by a grower for future planting;

(C) **That** is agricultural hemp seed; [*or*]

(D) **That** is for processing into[,] or **for** use as[,] agricultural hemp seed; or

[(D)] **(E) That** has been processed in a manner or to an extent that [it] **the Cannabis seed** is incapable of germination.

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

REGISTRATION

SECTION 2. ORS 571.305 is amended to read:

571.305. [(1) *Industrial hemp production and possession, and commerce in industrial hemp commodities and products, are authorized in this state. Industrial hemp is an agricultural product that is subject to regulation by the State Department of Agriculture.*]

[(2) *All growers and handlers must have an industrial hemp license issued by the department. Growers and handlers engaged in the production of agricultural hemp seed must also have an agricultural hemp seed production permit. The handling of seeds and seed products that are processed in a manner or to an extent that makes them incapable of germination does not require an agricultural hemp seed production permit.*]

[(3) *An application for an industrial hemp license or agricultural hemp seed production permit must include:*]

[(a) *The name and address of the applicant;*]

[(b) *The name and address of the industrial hemp operation of the applicant;*]

[(c) *The global positioning system coordinates and legal description for the property used for the industrial hemp;*]

[(d) *If the industrial hemp license or agricultural hemp seed production permit application is by a grower, information sufficient to establish that the industrial hemp crop of the applicant will be grown on fields that are each at least 2.5 acres in size; and*]

[(e) *Any other information required by the department by rule.*]

[(4) *An industrial hemp license or agricultural hemp seed production permit is valid for a one-year term unless revoked and may be renewed as provided by department rule. An industrial hemp license or agricultural hemp seed production permit is a personal privilege that is nontransferable.*]

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

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

(1) To grow or handle industrial hemp, a person must be registered with the State Department of Agriculture as a grower or handler.

(2)(a) Only a grower or handler registered under this section may produce agricultural hemp seed. For a grower or handler to produce agricultural hemp seed, the grower or handler must be registered with the department as an agricultural hemp seed producer.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A grower registered under this section that retains agricultural hemp seed as described in section 7 of this 2016 Act is not required to register with the department as an agricultural hemp seed producer; and

(B) A grower or handler registered under this section that produces Cannabis seeds that are incapable of germination, or a handler registered under this section that processes Cannabis seeds that are incapable of germination into commodities or products, is not required to register with the department as an agricultural hemp seed producer.

(3) An applicant for registration under this section must submit to the department, in a form and manner prescribed by the department, the following information:

- (a) The name and address of the applicant;**
- (b) The name and address of the industrial hemp operation of the applicant; and**
- (c) Any other information required by the department by rule.**

(4) Registration under this section is valid for a one-year term, beginning on January 1. A grower, handler or agricultural hemp seed producer may renew a registration under this section in a form and manner prescribed by the department.

(5) A registration under this section is a personal privilege and is not transferable.

[(7)] (6) [Every grower or handler] A grower or handler registered under this section must keep records as required by the department by rule. Upon not less than three days' notice, the department may subject the [required] records to inspection or audit during normal business hours. The department may make an inspection or audit for the purpose of ensuring compliance with:

[(a) A provision of this section;]

[(b) Department rules;]

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

[(d) A final department order directed to the grower's or handler's industrial hemp operations or activities.]

(a) A provision of ORS 571.300 to 571.315;

(b) A rule adopted under a provision of ORS 571.300 to 571.315; or

(c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.315 or a rule adopted under a provision of ORS 571.300 to 571.315.

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

[(9)] (8) The department may charge [growers and handlers reasonable fees as determined by the department.] growers, handlers and agricultural hemp seed producers application, registration and renewal of registration fees reasonably calculated by the department to pay the cost of administering ORS 571.300 to 571.315. Moneys from fees charged under this subsection shall be deposited [to] in the Department of Agriculture Service Fund and are continuously appropriated to the department for purposes of carrying out the duties of the department under [this section and] ORS 571.300 to 571.315.

REGULATION OF INDUSTRIAL HEMP AND AGRICULTURAL HEMP SEED

(Series Placement)

SECTION 3. Sections 4 to 9a of this 2016 Act are added to and made a part of ORS 571.300 to 571.315.

(In General)

SECTION 4. (1) Industrial hemp is an agricultural product that is subject to regulation by the State Department of Agriculture.

(2) For purposes of ORS chapter 616, the department may not consider industrial hemp or industrial hemp commodities or products to be an adulterant.

(Growers)

SECTION 5. A grower registered under ORS 571.305 may use any propagation method, including planting seeds or starts or the use of clones or cuttings, to produce industrial hemp.

SECTION 6. A grower shall provide the State Department of Agriculture, in a time, form and manner prescribed by the department, with an accurate description and global positioning system coordinates of the property on which the grower's crop is or will be located.

SECTION 7. (1) A grower registered under ORS 571.305 may retain agricultural hemp seed for the purpose of propagating industrial hemp in future years.

(2) A grower registered under ORS 571.305 that produces agricultural hemp seed only for the purpose of retaining the agricultural hemp seed as described in subsection (1) of this section:

(a) Does not need to register with the State Department of Agriculture under ORS 571.305 as an agricultural hemp seed producer; and

(b) Does not need to comply with any rule adopted by the department under section 8 of this 2016 Act.

(Agricultural Hemp Seed Producers)

SECTION 8. (1) An agricultural hemp seed producer registered under ORS 571.305:

(a) Must sell agricultural hemp seed in a manner that complies with any standard established by the Director of Agriculture under ORS 633.511 to 633.750; and

(b) May sell agricultural hemp seed only if the agricultural hemp seed meets any packaging or labeling requirement, or any quality standard, adopted by the director under subsection (2) of this section.

(2) The director may adopt rules establishing packaging requirements, labeling requirements and quality standards for agricultural hemp seed.

(3) The State Department of Agriculture shall make available to growers registered under ORS 571.305 information that identifies agricultural hemp seed producers registered under ORS 571.305 from whom the growers may purchase agricultural hemp seed.

(Testing)

SECTION 9. (1) For purposes of this section, "consumption" means to ingest, inhale or topically apply to the skin or hair.

(2) A laboratory licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority pursuant to ORS 475B.565 may test industrial hemp and industrial hemp commodities and products produced or processed by a grower, handler or agricultural hemp seed producer registered under ORS 571.305.

(3) A handler registered under ORS 571.305 may not sell an industrial hemp commodity or product that is intended for human consumption unless the commodity or product is tested by a laboratory described in subsection (2) of this section to ensure that the commodity or product meets the requirements adopted by the Oregon Health Authority under ORS 475B.555 (1)(a) and (b) and (2) for testing marijuana items.

(4) For purposes of this section, the State Department of Agriculture shall adopt rules:

(a) Establishing protocols for the testing of industrial hemp commodities and products; and

(b) Establishing procedures for determining batch sizes and for sampling industrial hemp commodities and products.

SECTION 9a. (1) The State Department of Agriculture may enter into an agreement with the Oregon Health Authority for the purpose of developing standards for investigating and testing an industrial hemp crop to ensure that the crop contains an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(2) In accordance with standards developed under subsection (1) of this section, a laboratory licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the authority pursuant to ORS 475B.565 may test an industrial hemp crop for the purpose of determining the average tetrahydrocannabinol concentration of the crop.

(3) A laboratory described in subsection (2) of this section must provide the test results to the department in a form and manner prescribed by the department.

DISCIPLINE

(Revocation and Refusal to Register or Renew Registration)

SECTION 10. ORS 571.315 is amended to read:

571.315. [(1) In addition to any other liability or penalty provided by Oregon law, the State Department of Agriculture may revoke or refuse to issue or renew an industrial hemp license or an agricultural hemp seed production permit and may impose a civil penalty for violation of:]

[*(a) A license or permit requirement;*]

[*(b) License or permit terms or conditions;*]

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

[*(d) A final order of the department that is specifically directed to the grower's or handler's industrial hemp operations or activities.*]

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

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

[(4) A revocation of, or a refusal to issue or renew, an industrial hemp license or an agricultural hemp seed production permit is subject to ORS chapter 183.]

[(5) The department may not revoke or refuse to issue or renew an industrial hemp license or an agricultural hemp seed production permit on the basis that industrial hemp production or possession, or commerce in industrial hemp commodities or products, is prohibited by federal law.]

(1) Subject to the provisions of ORS chapter 183, the State Department of Agriculture may revoke the registration of a grower, handler or agricultural hemp seed producer or refuse to register or renew the registration if a grower, handler or agricultural hemp seed producer violates:

(a) A provision of ORS 571.300 to 571.315;

(b) A rule adopted under a provision of ORS 571.300 to 571.315;

(c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.315 or a rule adopted under a provision of ORS 571.300 to 571.315; or

(d) Any statutory law or department rule related to agricultural activities other than industrial hemp operations.

(2) The department may not discipline a grower, handler or agricultural hemp seed producer under this section on the basis that possessing, delivering and manufacturing industrial hemp are prohibited by federal law.

(Series Placement)

SECTION 11. Section 12 of this 2016 Act is added to and made a part of ORS 571.300 to 571.315.

(Civil Penalties)

SECTION 12. (1) Subject to the provisions of ORS chapter 183, the State Department of Agriculture may impose a civil penalty not to exceed \$2,500 on a grower, handler or agricultural hemp seed producer for violating:

- (a) A provision of ORS 571.300 to 571.315;
- (b) A rule adopted under a provision of ORS 571.300 to 571.315; or
- (c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.315 or a rule adopted under a provision of ORS 571.300 to 571.315.

(2) The department may not discipline a grower, handler or agricultural hemp seed producer under this section on the basis that possessing, delivering and manufacturing industrial hemp are prohibited by federal law.

(3) All moneys collected by the department under this section shall be deposited in the General Fund in the State Treasury to the credit of the Department of Agriculture Account. All moneys deposited in the account pursuant to this section are continuously appropriated to the department for the purpose of administering ORS 571.300 to 571.315.

CONFORMING AMENDMENTS

SECTION 13. ORS 475B.005 is amended to read:

475B.005. (1) The People of the State of Oregon declare that the purposes of ORS 475B.010 to 475B.395 are:

(a) To eliminate the problems caused by the prohibition and uncontrolled manufacture, delivery and possession of marijuana within this state;

(b) To protect the safety, welfare, health and peace of the people of this state by prioritizing this state's limited law enforcement resources in the most effective, consistent and rational way;

(c) To permit persons licensed, controlled and regulated by this state to legally manufacture and sell marijuana to persons 21 years of age and older, subject to the provisions of ORS 475B.010 to 475B.395; **and**

[(d) To ensure that the State Department of Agriculture issues industrial hemp licenses and agricultural hemp seed production permits in accordance with state law; and]

[(e)] (d) To establish a comprehensive regulatory framework concerning marijuana under existing state law.

(2) The People of the State of Oregon intend that the provisions of ORS 475B.010 to 475B.395, together with other provisions of state law, will:

(a) Prevent the distribution of marijuana to persons under 21 years of age;

(b) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;

(c) Prevent the diversion of marijuana from this state to other states;

(d) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(e) Prevent violence and the use of firearms in association with the cultivation and distribution of marijuana;

(f) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(g) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(h) Prevent the possession and use of marijuana on federal property.

MISCELLANEOUS

SECTION 14. The amendments to ORS 571.305 by section 2 of this 2016 Act apply to applications received by the State Department of Agriculture for initial registration and renewal of registration on or after the effective date of this 2016 Act.

SECTION 15. Section 12 of this 2016 Act and the amendments to ORS 571.315 by section 10 of this 2016 Act apply to adjudications commenced by the State Department of Agriculture on or after the effective date of this 2016 Act.

SECTION 16. The unit captions used in this 2016 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2016 Act.

SECTION 17. This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.

Passed by House February 16, 2016

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate February 26, 2016

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2016

Approved:

.....M,....., 2016

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2016

.....
Jeanne P. Atkins, Secretary of State