

Enrolled
House Bill 2284

Sponsored by Representatives CLEM, SMITH DB; Representatives CATE, EVANS, HELM, LEVY, WILLIAMS (Presession filed.)

CHAPTER

AN ACT

Relating to hemp; and prescribing an effective date.

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

SECTION 1. As used in sections 1 to 36 of this 2021 Act:

(1) "Fiscal year":

(a) Except as provided in paragraph (b) of this subsection, means the 12-month period commencing on July 1 and ending on June 30.

(b) If adopted by rule by the Oregon Hemp Commission, means the 12-month period commencing on January 1 and ending on December 31.

(2) "Hemp" means the plant species *Cannabis sativa* that:

(a) Has a tetrahydrocannabinol concentration that complies with the concentration specified by the State Department of Agriculture by rule; and

(b) Has the meaning as defined by the department by rule.

(3) "Processor" has the meaning given the term "handler" in ORS 571.269.

(4) "Producer" has the meaning given the term "grower" in ORS 571.269.

SECTION 2. (1) It is hereby declared, as a matter of legislative determination, that sections 1 to 36 of this 2021 Act are enacted in the exercise of the power of the state for the purposes of protecting and furthering the public health and welfare. It is further declared that the hemp industry of this state is affected with a public interest in that, among other things:

(a) The production, processing, manufacture and distribution of hemp and hemp products constitute a paramount industry of this state that not only provides substantial and required revenues for the state and its political subdivisions, and employment and a means of livelihood for many thousands of its population, but also provides essential foods, supplements and other agricultural, commercial and industrial products that are vital to the public health and welfare.

(b) The stabilization, maintenance and expansion of the hemp industry of Oregon, and of the state, national and international markets for hemp products, are necessary to assure the consuming public an adequate supply of foods and supplements that are indispensable in a proper human diet, as well as other agricultural, commercial and industrial products to protect, for the state and its political subdivisions, a necessary source of tax revenue, to provide and maintain an adequate standard of living for a great segment of the population of this state, to maintain proper wage scales for those engaged in the hemp industry and to maintain existing employment.

(c) The essential nature of hemp and hemp products is such as to require that the public be made aware of the essential nature of hemp and hemp products, and be protected against misrepresentation and deception, by the dissemination of accurate and scientific information about various hemp and hemp products, their various classifications, the food values and industrial and therapeutic uses of hemp and hemp products, the methods, care and precautions necessary to their proper production, processing, manufacture and distribution, the necessary costs and expenses of the production, processing, manufacture and distribution of hemp and hemp products and the necessity and desirability on the part of the public of using and consuming hemp and hemp products of the highest standards of quality.

(2) The purposes of sections 1 to 36 of this 2021 Act are:

(a) To enable the hemp industry, with the aid of the state, to develop, maintain and expand the state, national and international markets for hemp and hemp products produced, processed or manufactured in this state, and the use and consumption of hemp and hemp products in the state, national and international markets.

(b) In aid, but not in limitation, of the purposes described in paragraph (a) of this subsection, to authorize and enable the Oregon Hemp Commission to formulate and effectuate, directly or in cooperation with other agencies and instrumentalities specified in sections 1 to 36 of this 2021 Act, sales stimulation and consumer or other educational programs designed to increase the use and consumption of hemp and hemp products and to conduct research, education and information programs related to the hemp industry.

SECTION 3. (1) The State Department of Agriculture shall:

(a) Monitor the methods and practices used or proposed by the Oregon Hemp Commission in carrying out the goals and meeting the needs disclosed by the budget of the commission;

(b) Promote cooperation among the Oregon Hemp Commission, the commodity commissions, the Oregon Beef Council and the Oregon Wheat Commission, and assist in the interchange of information and experiences among those entities;

(c) Carry out the assigned organizational procedures under sections 1 to 36 of this 2021 Act, including the appointment and removal of members of the Oregon Hemp Commission;

(d) Review budgets submitted to the Director of Agriculture by the commission; and

(e) Adopt rules to carry out the provisions of sections 1 to 36 of this 2021 Act.

(2) The department shall review, and may approve or disapprove, plans and projects recommended by the Oregon Hemp Commission for promotion, advertising and research and for the dissemination of consumer and hemp industry information. In reviewing a plan or project under this subsection, the department shall consider whether the plan or project is:

(a) Factual;

(b) Not disparaging to other agricultural commodities; and

(c) Consistent with the purposes of sections 1 to 36 of this 2021 Act.

SECTION 4. (1) In the same manner as that provided in ORS 576.206, the Director of Agriculture shall appoint seven temporary members to the Oregon Hemp Commission. In appointing the temporary members, the director shall consider any recommendations by commodity commissions, producers and producer associations. All temporary members of the commission must be citizens of the United States and residents of this state.

(2)(a) A majority of the temporary members must be producers.

(b) A producer member appointed under subsection (1) of this section must have produced hemp under a license or registration issued by the State Department of Agriculture for at least three years prior to the member's appointment.

(c) At least one member must be a processor. A processor member appointed under this subsection must have processed hemp under a license or registration issued by the department for at least three years prior to the member's appointment.

(d) At least one member must be a member of the public who is not associated with the production or processing of hemp.

(3) The temporary members shall adopt rules for the commission in accordance with ORS chapter 183, including but not limited to rules:

- (a) Establishing the number and geographic representation of the commissioners;
- (b) Providing for recommending the removal of commissioners;
- (c) Setting a stipend and per diem for the commissioners; and

(d) Relating to the assessment rate and procedures described in sections 1 to 36 of this 2021 Act.

(4) The terms of temporary members expire on the date of the first meeting of the commissioners appointed under subsection (6) of this section, but not later than one year after the effective date of this 2021 Act.

(5) A qualified temporary member is eligible for appointment to a term on the commission under subsection (6) of this section.

(6) Except as provided in subsection (11) of this section, the director shall appoint the commissioners to the commission in accordance with rules adopted under subsection (3) of this section. In appointing the commissioners, the director shall consider any recommendations by commodity commissions, producers and producer associations. The commissioners appointed under this subsection may be the same as the temporary members appointed under subsection (1) of this section. All commissioners must be citizens of the United States and residents of this state.

(7)(a) All commissioners other than processors and the members of the public must be producers.

(b) A majority of the commissioners must be producers that have produced hemp under a license or registration issued by the department for at least three years prior to appointment to the commission.

(c) At least one commissioner must be a processor that has processed hemp under a license or registration issued by the department for at least three years prior to the commissioner's appointment.

(d) At least one commissioner must be a member of the public who is not associated with the production or processing of hemp.

(8) The term of a commissioner appointed under subsection (6) of this section is four years unless a shorter term is established by the commission by rule to provide for staggered terms. A commissioner is eligible for reappointment unless otherwise provided by the commission by rule. Before the expiration of a commissioner's term, the director shall appoint a successor to assume office upon expiration of the term. If there is a vacancy on the commission for any reason, including a reason specified in section 6 or 7 of this 2021 Act, the director shall appoint a person to the unexpired term.

(9) The commission shall select one member to serve as chairperson, another member to serve as vice chairperson and another member to serve as secretary-treasurer with the duties and powers that the commission deems appropriate to those offices.

(10) A temporary member of the commission and a commissioner are entitled to compensation and expenses in the manner and amounts provided in ORS 292.495. Claims for compensation earned and expenses incurred in performing the functions of the commission shall be paid out of funds available to the commission.

(11) The commission may amend the rules adopted by the temporary members under subsection (3) of this section.

SECTION 5. The Director of Agriculture and the Dean of the College of Agricultural Sciences of Oregon State University are ex officio nonvoting members of the Oregon Hemp Commission.

SECTION 6. The Director of Agriculture shall immediately declare the office of a member of the Oregon Hemp Commission who is a producer or processor vacant if the director finds that:

- (1) The member is no longer actively engaged in hemp production or processing;

- (2) The member has become a resident of another state; or
- (3) The member is otherwise unable to perform the duties of the office.

SECTION 6a. The Director of Agriculture shall immediately declare the office of a member of the Oregon Hemp Commission who is a member of the public vacant if the director finds that the member has become a producer or processor.

SECTION 7. (1) The Director of Agriculture may remove a member of the Oregon Hemp Commission for inefficiency, neglect of duty or misconduct in office if the director provides:

(a) At least 10 days before the date of a public hearing on the issue of removal of the member, service on the member of:

- (A) A copy of the charges against the member; and
- (B) Notice of the time and place of the public hearing on the issue of removal; and

(b) A public hearing on the issue of removal of the member at which the member must have the opportunity to be heard in person or by counsel and to present evidence to answer the charges and explain the facts alleged against the member.

(2) In the case of removal, the director shall file with the office of the Secretary of State a complete statement of all charges against the member, and the findings on the charges, along with a record of the entire removal proceedings.

SECTION 8. (1) The Oregon Hemp Commission may adopt rules to establish the amount of payment that a member of the commission receives under ORS 292.495 for each day, or portion of a day, during which the member is engaged in the performance of official duties. Any rules adopted under this section must specify that the amount must be at least the amount of payment that would otherwise be provided under ORS 292.495.

(2) Members, officers and employees of the commission must receive their actual and necessary travel and other expenses reasonably incurred in the performance of their official duties. Subject to any limitations described under ORS 292.495 (2), the commission shall adopt rules governing the incurring and paying of the expenses described in this subsection.

SECTION 9. (1) The Oregon Hemp Commission shall establish a meeting place anywhere in this state, but must consider in selecting the location the convenience of the majority of those persons most likely to have business with the commission or to be affected by the acts of the commission.

(2) Notwithstanding subsection (1) of this section, the commission may participate in meetings outside the state for the purposes of advancing the work of the commission.

(3) The commission may take action only at meetings held within this state.

SECTION 10. The Oregon Hemp Commission may:

(1) Conduct scientific research to discover and develop the commercial value of hemp and hemp products.

(2) Disseminate reliable information founded upon the research conducted under sections 1 to 36 of this 2021 Act that shows the value of hemp and hemp products for any purpose for which hemp and hemp products may be found useful and profitable.

(3) Study federal and state legislation with respect to tariffs, duties, reciprocal trade agreements, import quotas and other matters concerning the effect of the legislation on the hemp industry, and represent and protect the interests of the hemp industry with respect to any legislation, proposed legislation or executive action that may affect the hemp industry.

(4) Act jointly and in cooperation with the federal government, or any federal agency, in the administration of any program of the federal government or federal agency that the commission determines is beneficial to the hemp industry in this state, and expend funds in connection with the administration of a program described in this subsection, provided that the program is compatible with the powers conferred on the commission by sections 1 to 36 of this 2021 Act.

(5) Enter into contracts for advertising hemp and for developing new markets through advertising.

(6) Develop plans or projects for promotion and advertising research, consumer information and industry information, and create programs that will lead to the development of new markets, marketing strategies, increased efficiency and activities to enhance the image of the hemp industry.

(7) Appoint all subordinate officers and employees of the commission and establish their duties and compensation.

(8) Levy the assessments described in section 18 of this 2021 Act.

(9) Borrow money in amounts that do not exceed estimated revenues from assessments for the year.

(10) Enter into contracts for carrying out the duties of the commission, in addition to those duties described in subsection (5) of this section.

(11) Subject to ORS 30.260 to 30.300, sue and be sued in the name of the commission.

(12) Request that the Attorney General prosecute in the name of the State of Oregon suits and actions for the collection of assessments levied by the commission.

(13) Participate in federal and state hearings or other proceedings concerning regulation of the manufacture, distribution, sale or use of pesticides as defined in ORS 634.006 or other chemicals that are of use or potential use to producers. This subsection does not authorize the commission to regulate the use of pesticides.

(14) To the extent consistent with the duties of the commission, participate in and cooperate with local, state, national and international private organizations or governmental agencies that engage in work similar to that of the commission.

(15) Provide mechanisms for maintaining and expanding existing markets and developing new domestic and international markets for hemp, including but not limited to:

(a) Public relations programs;

(b) Media relations programs;

(c) Paid print and electronic advertising;

(d) Point of sale promotion and coupon programs; and

(e) Activities that prevent, modify or eliminate trade barriers that obstruct the free flow of hemp to market.

(16) Conduct and fund research, in addition to that described in subsection (1) of this section, to:

(a) Enhance the commercial value of hemp and hemp products;

(b) Discover the benefits to public health, the environment or the economy of consuming or otherwise using hemp;

(c) Develop better and more efficient production, harvesting, irrigation, processing, transportation, handling, marketing and uses of hemp;

(d) Control or eradicate hazards to hemp, including but not limited to hazards from diseases, pests and weeds, while supporting coexistence between hemp and other agricultural crops, including marijuana;

(e) Develop viable alternatives for the rotation of crops;

(f) Determine new or potential demand for hemp and develop appropriate market development strategies for capturing that demand; and

(g) Measure the effectiveness of marketing, advertising or promotional programs.

(17) Gather, publicize and disseminate information that shows the importance of the consumption and other uses of hemp to public health, the environment, the economy and the proper nutrition of children and adults.

(18) Further the purposes of this section by funding scholarships for or providing financial assistance to persons or entities interested in hemp.

(19) Adopt rules as necessary to carry out the duties, functions and powers conferred on the commission by this section.

SECTION 11. (1)(a) The Oregon Hemp Commission may contract with an independent contractor for the performance of any service, except that the commission may not contract with an independent contractor to perform discretionary functions of the commission.

(b) ORS 279.835 to 279.855 and ORS chapters 240, 279A, 279B and 279C do not apply to the commission in obtaining services described in this subsection, except that a contract for services described in this subsection may not take effect until the contract is approved by the State Department of Agriculture under subsection (7) of this section and the Department of Justice under subsection (8) of this section.

(2)(a) The commission may rent space or acquire supplies and equipment from any contractor as described in subsection (1) of this section.

(b) ORS 276A.206, 279.835 to 279.855 and 283.085 to 283.092 and ORS chapters 276, 278, 279A, 279B, 279C and 283 do not apply to rentals or acquisitions described in this subsection.

(3) Except as provided in this section, a contractor described in subsection (1) of this section shall be considered an independent contractor and not an employee, eligible employee, public employee or employee of the state for purposes of Oregon law, including ORS chapters 236, 238, 238A, 240, 243, 291, 316 and 652.

(4) Nothing in this section precludes the state or the commission from being considered the employer of the contractor described in subsection (1) of this section for purposes of unemployment compensation under ORS 670.600 and ORS chapter 657.

(5) A contractor described in subsection (1) of this section shall be considered an independent contractor and not a worker for purposes of ORS 670.600 and ORS chapter 656.

(6) A contractor described in subsection (1) of this section may not be considered a public official, public officer, state officer or executive official for purposes of Oregon law, including ORS 171.725 to 171.785 and ORS chapters 236, 244, 292, 295 and 297.

(7) The State Department of Agriculture shall review the contract described in subsection (1) of this section for the adequacy of the clauses pertaining to statement of work, starting and ending dates, consideration, subcontracts, funds authorized in the budget, amendments, termination, compliance with applicable law, assignment and waiver, access to records, indemnity, ownership of work product, nondiscrimination, successors in interest, attorney fees, tax certification or merger or any other clause the department deems necessary.

(8) The Department of Justice shall review any contracts, agreements and similar funding devices that meet or exceed the fund threshold established by the department by rule.

(9) The Oregon Department of Administrative Services, in consultation with the State Department of Agriculture, shall adopt rules necessary for the screening and selection of independent contractors under this section.

(10) Except as provided under subsection (9) of this section, the State Department of Agriculture may adopt rules as necessary to carry out this section.

SECTION 12. (1) The Oregon Hemp Commission shall:

(a) Adopt a budget, obtain budget approval and submit financial statements in the same manner as a commodity commission acting under ORS 576.416.

(b) Receive, deposit, invest, expend and budget moneys in the same manner as a commodity commission acting under sections 26, 31, 32 and 33 of this 2021 Act.

(2) The commission may accept grants, donations or contributions from any source and for expenditures for any purpose consistent with the powers conferred on the commission.

SECTION 13. (1) Upon request by the Oregon Hemp Commission, the Oregon Department of Administrative Services may:

(a) Purchase or otherwise provide for acquiring or furnishing supplies, materials, equipment and services, other than personal services, that the commission requires and for independent contractors to furnish professional services to the commission.

(b) Provide for printing and multiple duplication work for the commission under ORS 282.010 to 282.050, except for printing and binding that advertises or promotes hemp or hemp products.

(c) Provide for services to the commission for disposing of surplus, obsolete or unused supplies, materials and equipment under ORS 279A.280.

(d) Provide for central telephone service, central mail service and messenger services to the commission under ORS 283.140.

(e) Provide motor vehicles for use by members, officers and employees of the commission under ORS 283.305 to 283.350.

(2) The commission shall pay to the department an amount for services performed by the department under subsection (1) of this section that the department determines is adequate to reimburse the department.

(3) Upon request by the commission, the department may design and supervise the installation of an accounting system for the commission. The commission shall pay to the department an amount for services performed by the department under this subsection that the department determines is adequate to reimburse the department.

SECTION 14. (1) The Oregon Hemp Commission may elect to provide services, facilities and materials to commodity commissions created under ORS 576.051 to 576.455, the Oregon Wheat Commission, the Oregon Beef Council and other state agencies and officers under ORS 283.110.

(2) Upon request by the Oregon Hemp Commission, any other entity described in subsection (1) of this section may provide services, facilities and materials to the commission under ORS 283.110.

SECTION 15. ORS 291.026, 291.201 to 291.222, 291.232 to 291.260, 291.322 to 291.334, 292.210 to 292.250, 293.260 to 293.280, 293.295 to 293.346 and 293.590 to 293.640 do not apply to the Oregon Hemp Commission or to the administration and enforcement of sections 1 to 36 of this 2021 Act.

SECTION 16. (1) Wages or salaries of employees of the Oregon Hemp Commission are not subject to personnel compensation plans for state employees established by the Oregon Department of Administrative Services under ORS 240.235 to 240.250.

(2) The commission is not required to utilize office space provided or obtained by the department as provided in ORS chapter 276.

(3) The State Department of Agriculture may charge and collect from the commission an assessment or fee to reimburse the department for supervisory or administrative functions the department is required by law to perform for the commission. The department shall establish the amount of the assessment or fee by rule.

SECTION 17. (1) As used in this section, "intellectual property" means patents, copyrights, trademarks, inventions, discoveries, processes, ideas and other similar property, whether or not they are patentable or copyrightable.

(2)(a) The Oregon Hemp Commission may:

(A) Consistent with the purposes of the commission, develop intellectual property that relates to hemp or assists in the implementation, maintenance or development of commission programs.

(B) Take all necessary and proper actions, including but not limited to entering into contracts and other agreements and owning, managing, disposing of or using the intellectual property.

(b) The commission shall adopt rules to govern the ownership, management, disposal and use of intellectual property and other activities of the commission relating to intellectual property.

(3) Moneys received by the commission as a result of the ownership, management, disposal or use of intellectual property, or other activities of the commission relating to intel-

lectual property, must be deposited into the account established by the commission as described in section 26 of this 2021 Act.

SECTION 18. (1) As used in this section:

(a) "Commodity" means hemp.

(b) "Industry average unit price" means the average unit price for the raw commodity within the industry and includes prices that are calculated using a one-year, two-year or three-year average and data from the most recent complete year or years preceding the year of determination.

(2)(a) The Oregon Hemp Commission may assess, levy and collect an assessment in an amount determined by rule, on all units of the commodity grown or produced in this state and sold or transferred in commercial channels. The commission may not apply an assessment to a transaction that occurred prior to the effective date of the rule in which the commission adopted the assessment.

(b) The commission may assess, levy and collect a differential assessment in an amount determined by the commission by rule, based on the intended use, type or variety and value of the commodity.

(c) Casual sales made by a producer directly to a consumer are exempt from the assessment described in this subsection.

(d) The commission may by rule define and regulate processing and casual sales of the commodity and the methods of assessment under this section.

(3) The amount of the assessment provided for in subsection (2) of this section is limited as follows:

(a) If the commission assesses on a unit basis, the maximum assessment may not exceed 1.5 percent of the industry average unit price. The commission may determine the industry average unit price by considering data and estimates of the United States Department of Agriculture, Oregon State University or other reliable sources.

(b) If the commission assesses on a percentage of the dollar value basis, the maximum assessment may not exceed 1.5 percent of the dollar value that a producer receives for the raw commodity. If the dollar value is not otherwise determinable, the commission may establish the dollar value based on the industry average unit price for that year for the raw commodity.

(4) The commission shall assess, levy and collect an assessment under subsection (2) of this section from the producer at the time and in the manner provided by the commission by rule. The commission is the owner of a collected assessment. A person who collects an assessment holds the assessment in trust for the benefit of the commission and the state, and shall remit the assessment as required by the commission under section 20 of this 2021 Act.

(5) Notwithstanding subsection (4) of this section, the commission may assess, levy and collect an assessment from a producer as determined by the commission by rule. Except as provided in subsection (6) of this section, the assessment may not exceed the limits described in subsection (3) of this section.

(6) Notwithstanding subsection (5) of this section, the commission may assess, levy and collect an assessment in excess of the limits described in subsection (3) of this section pursuant to a federal marketing order or agreement.

(7) A person who believes that the amount of an assessment is incorrect may apply to the commission for a refund not later than 60 days after the date on which the person paid the assessment.

SECTION 19. (1) The Oregon Hemp Commission may establish by rule exemptions from the assessments described in section 18 of this 2021 Act based on:

(a) Hemp quantities;

(b) Types of hemp sales;

(c) Types of hemp producers; and

- (d) Types of hemp processors.
- (2) In adopting a rule under subsection (1) of this section, the commission shall consider:
 - (a) Federal laws and rules, and laws and rules of other states, that relate to commodity commissions, boards and marketing orders;
 - (b) The practices, procedures and customs unique to the production, processing and trading of hemp and to producers; and
 - (c) The cost of collecting the particular assessment and any practical problems relating to the collection.
- (3) A producer or processor that is exempted from assessment but required to submit reports to the commission is subject to section 22 of this 2021 Act.

SECTION 20. (1) A person responsible for collecting an assessment on behalf of the Oregon Hemp Commission:

- (a) Shall report to the commission as required by the commission by rule.
- (b) Who fails to deduct an assessment at the time of sale shall report and pay the assessment to the commission.
- (2) This section applies to a producer that is required to report and pay an assessment.

SECTION 21. (1) When a processor lives, or has the processor's office, in Oregon, the producer shall report all transfers or sales made to the processor on forms provided by the Oregon Hemp Commission and pay the assessment moneys directly to the commission.

(2) When a processor lives, or has the processor's office, in another state or country or is a federal or other governmental agency, the producer shall report all transfers or sales made to the processor on forms provided by the Oregon Hemp Commission and pay the assessment moneys directly to the commission.

(3) If a producer is also licensed as a processor and performs all or part of the producer's processing functions that would normally be performed by another person in the role of processor, the producer shall report all transfers or sales of hemp from the production of the producer on forms provided by the commission and pay the assessment moneys directly to the commission.

SECTION 22. (1) A person required to pay or collect an assessment on hemp under sections 1 to 36 of this 2021 Act shall maintain accurate records sufficient to enable the Oregon Hemp Commission to determine by inspection and audit the accuracy of assessments paid or due to the commission and of reports made or due to the commission.

(2) For purposes of determining the accuracy of assessments paid or due to the commission, the commission, or a person authorized by the commission, may:

- (a) Make an inspection during normal business hours of the business premises of a person required to pay or collect an assessment; and
- (b) Audit the records of a person required to pay or collect an assessment.

(3) For purposes of determining the accuracy of assessments paid or due to the commission, the commission may issue a subpoena for the production of any books, records or documents related to the payment or collection of an assessment to a person required to pay or collect the assessment.

(4) If an audit determines that a person is delinquent in the payment or collection of an assessment, the person shall pay the cost of the audit, not to exceed an amount equal to the delinquent assessment.

SECTION 23. (1) In addition to the penalties prescribed in section 36 of this 2021 Act, a person who delays transmittal of funds beyond the time set by the Oregon Hemp Commission shall pay a penalty of 10 percent of the amount due and one and one-half percent interest per month on the unpaid balance of the assessment.

(2) The commission may waive the penalty and interest described in subsection (1) of this section upon a showing of good cause, as determined by the commission by rule.

(3) Notwithstanding subsection (1) of this section, if an assessment is collected pursuant to a federal marketing order or agreement, the commission may establish a penalty or interest rate that is consistent with the federal marketing order or agreement.

SECTION 24. (1) If a person responsible for the transmittal of assessment moneys to the Oregon Hemp Commission fails to relinquish assessment moneys collected, the person shall pay an amount equal to twice the amount of the unrelinquished assessment moneys.

(2) The commission may commence a civil action or utilize any other available legal or equitable remedy to collect an assessment or civil penalty, obtain injunctive relief or obtain specific performance under sections 1 to 36 of this 2021 Act.

(3) If the person responsible for the transmittal of assessment moneys is a cooperative, corporation or joint venture, all directors and officers of the cooperative, corporation or joint venture are personally liable for a failure to relinquish the assessment moneys collected by the cooperative, corporation or joint venture.

(4) If the commission obtains a favorable judgment in an action or suit under subsection (2) of this section, the court shall award to the commission costs and reasonable attorney fees.

SECTION 25. (1) A producer may dispute the amount of an assessment levied against the producer on a unit basis under section 18 of this 2021 Act if the total assessment levied against the producer during an assessment period established by the Oregon Hemp Commission by rule exceeds the total dollar value received by the producer for the hemp during that assessment period multiplied by the maximum lawful assessment percentage.

(2) A producer who disputes the amount of an assessment as provided under subsection (1) of this section may file a challenge to the assessment with the commission not more than 60 days after the close of the assessment period. The challenge must be filed on a form provided by the State Department of Agriculture. The commission shall process a challenge under this section pursuant to rules adopted under subsection (4) of this section.

(3) A producer filing a challenge under this section has the burden of proving the total dollar value received by the producer during the assessment period. If the producer is also licensed as a processor, the producer also has the burden of proving the prices paid to the producer are equivalent to prices paid in arm's-length transactions. The commission shall refund the amount of the assessment that the producer proves is in excess of the total dollar value received by the producer for the hemp during the assessment period multiplied by the maximum lawful assessment percentage.

(4)(a) The department shall adopt rules to carry out this section. Rules adopted under this paragraph must include, but need not be limited to, procedures for filing, processing and formal or informal resolution of challenges and for determining hemp prices paid in arm's-length transactions.

(b) The commission shall adopt rules establishing assessment periods and may adopt other rules as necessary and that do not conflict with the rules adopted by the department under this subsection.

SECTION 26. (1)(a) Moneys a person collects or receives from the assessment levied pursuant to section 18 of this 2021 Act, and other moneys the Oregon Hemp Commission receives, must be paid to the authorized agent of the commission and promptly deposited into an account established by the commission in a depository, as defined in ORS 295.001, that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

(b) In a manner consistent with the requirements of ORS 295.001 to 295.108, the chairperson, vice chairperson and secretary-treasurer for the commission shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the coverage limits established by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

(c) All moneys in the account are continuously appropriated to the commission for the purposes of carrying out the commission's duties, functions and powers.

(2) Moneys may not be withdrawn from or paid out of the account except upon order of the commission, and upon checks or other orders upon accounts signed by the secretary-treasurer or other member of the commission that the commission designates and countersigned by another member, officer or employee of the commission that the commission designates. The commission shall keep a receipt, voucher or other written record showing clearly the nature and items covered by each check or other order.

(3) Subject to approval by the Director of Agriculture, the commission may invest moneys the commission collects or receives. Investments the commission makes are:

(a) Limited to investments described in ORS 294.035;

(b) Subject to the investments maturity date limitations described in ORS 294.135; and

(c) Subject to the conduct prohibitions listed in ORS 294.145.

(4) Interest earned from any moneys the commission invests under subsection (3) of this section is available to the commission in a manner consistent with the commission's annual budget.

(5) In addition to, or in lieu of, investments described in subsection (3) of this section, the commission may invest in the investment pool described in ORS 294.805. For purposes of ORS 294.805 to 294.895, the commission is a public corporation and the secretary-treasurer of the commission is the local government official.

SECTION 27. (1) A person authorized by the Oregon Hemp Commission to receive or disburse moneys under sections 1 to 36 of this 2021 Act shall obtain a fidelity bond from the Oregon Department of Administrative Services.

(2) The bond must be in an amount equal to the maximum amount of moneys that the commission determines the person may control. The commission may establish conditions on the person's control of moneys under this section.

(3) The commission shall pay the cost of the bond.

(4) If the person is an employee of the commission, the department shall purchase the bond and the commission shall pay the cost of the bond.

SECTION 28. The Oregon Hemp Commission may cancel an uncollectible assessment consistent with ORS 293.240. Subsequent collection of debt written off under ORS 293.240 is governed by ORS 293.245.

SECTION 29. The Oregon Hemp Commission shall maintain accurate books, records and accounts of its dealings. The books, records and accounts of the commission must be open to inspection and audit by the Secretary of State.

SECTION 30. (1) The Oregon Hemp Commission shall adopt an annual budget, using classifications of expenditures and revenues required by ORS 291.206. The budget described in this subsection is not subject to review by the Legislative Assembly or to future modification by the Emergency Board or the Legislative Assembly.

(2)(a) The commission shall follow generally accepted accounting principles and keep financial and statistical information as necessary to completely and accurately disclose the financial operations of the commission as required by the Secretary of State.

(b) The budget must show:

(A) The estimated receipts and expenditures by or under the authority of the commission under sections 1 to 36 of this 2021 Act for the fiscal year for which the budget is adopted; and

(B) The actual receipts and expenditures by or under the authority of the commission for the fiscal year preceding the fiscal year in which the proposed budget is prepared, and the estimated receipts and expenditures by or under the authority of the commission for the fiscal year in which the budget is prepared.

(3) Estimated receipts and expenditures for the fiscal year for which the budget is adopted must be fully itemized and be prepared and arranged clearly to show each item of

receipts and expenditures. To the extent practicable, the items of receipts and expenditures must be arranged under major groups or categories that are the same as the most recent classifications of revenue and expenditures established pursuant to ORS 291.206.

(4) The budget must contain only one estimate for emergency or other expenditures that are unforeseen at the time the budget is prepared.

(5)(a) The commission shall call and hold at least one public meeting on the proposed budget. The commission shall, in determining the time and place of the meeting, consider the convenience of the majority of the producers licensed by the State Department of Agriculture.

(b) At a meeting described in this subsection, any person has the right to be heard with respect to the proposed budget.

(6) At least 14 days prior to the date of a meeting described in subsection (5) of this section, the commission shall publish notice at least once in a newspaper of general circulation in this state. The notice must include the purpose, time and place of the meeting and state that a copy of the proposed budget is available for public inspection at the place of business of the commission or other location.

(7)(a) After a budget has been adopted, the commission shall submit to the Director of Agriculture a copy of the budget and an affidavit setting forth the pertinent facts relating to the preparation and adoption of the budget. The director shall examine the budget and affidavit within 30 days of their receipt.

(b) If the director determines that the estimated receipts and expenditures conform with the authority of the commission and other requirements, and the facts set forth in the affidavit indicate the budget was lawfully prepared and adopted, the director shall certify those determinations on the copy of the budget and make the budget final.

(c) If the director determines that the budget fails to meet requirements, the director shall immediately notify the commission of the failures. The commission shall promptly take all practicable measures to remedy the failures and resubmit a copy of the budget to the director.

(d) The director shall retain the certified copy of the final budget and make the budget available for public inspection during normal business hours of the State Department of Agriculture.

(8) The commission shall:

(a) Prepare an annual financial statement of commission revenues and expenses and make the statement available for public review;

(b) Provide a copy of the annual financial statement and other required reports to the department not later than 20 days after the end of the fiscal year; and

(c) Upon request of the Secretary of State, provide a copy of the statement to the secretary.

SECTION 31. An expenditure of moneys for a fiscal year may not be made or incurred by or under the authority of the Oregon Hemp Commission under sections 1 to 36 of this 2021 Act unless the commission complies with section 30 of this 2021 Act.

SECTION 32. (1) Except as otherwise provided in subsection (2) of this section, an expenditure of moneys for a fiscal year may not be made or incurred by or under the authority of the Oregon Hemp Commission under sections 1 to 36 of this 2021 Act:

(a) In excess of the total amount of expenditures estimated for the fiscal year in the budget adopted for the fiscal year or in excess of the total amount of expenditures estimated for any major category in the budget adopted for the fiscal year.

(b) For any purpose different than that indicated by the major category in the budget adopted for the fiscal year.

(2) An expenditure of moneys for a fiscal year unforeseen at the time the budget is prepared may not be made or incurred by or under the authority of the commission under

sections 1 to 36 of this 2021 Act in excess of the amount of unforeseen expenditures estimated as provided in section 30 of this 2021 Act.

SECTION 33. (1) Subject to section 32 (2) of this 2021 Act, expenditures of moneys for a fiscal year unforeseen at the time the Oregon Hemp Commission budget is prepared may be made or incurred by order of the commission. When an unforeseen expenditure of moneys occurs in a fiscal year, the commissioners must approve a motion for an order of a fund transfer. The motion must include:

(a) The amount and purpose of the expenditure and why the expenditure was unforeseen;
(b) A request for the certification by the Director of Agriculture of the order;
(c) The specific major category of the budget to which the specific funds are to be allocated; and

(d) The specific major category of the budget from which the funds are to be transferred.

(2) At least one copy of the order for the fund transfer must be filed in the office of the commission and made available for public inspection during normal business hours of the commission.

(3) The commission shall send the request for certification of the order for the fund transfer to the director. The director shall:

(a) Examine the request, the commission's most recent financial statement, the minutes of the meeting at which the commissioners approved the motion to request the order and the budget to which the order relates.

(b) Certify the order if the director determines that the form of the order is in accordance with the law, that the facts set forth in the order and the budget to which the order relates indicate that the order is in accordance with the law and that the proposed unforeseen expenditure is appropriate to accomplish the goals and needs of the commission.

(c) Immediately notify the commission if the director determines that the order is defective because:

(A) Of a failure to comply with section 30 of this 2021 Act;

(B) The final budget or the preparation or adoption of the final budget is defective; or

(C) The estimated expenditures do not conform with statutory requirements.

(4) If the director finds that the order is defective, the commission shall promptly take all practicable steps to remedy the defects.

(5) After certifying an order under this section, the director shall retain the certified copy of the order and make the copy available for public inspection during normal business hours of the State Department of Agriculture.

SECTION 34. (1) Unless the Legislative Assembly orders a refund pursuant to subsection (2) of this section, if the Legislative Assembly abolishes the Oregon Hemp Commission, any moneys remaining in the possession of the abolished commission on the effective date of the abolishment are transferred to Oregon State University and are continuously appropriated to the university for research benefitting producers.

(2) The Legislative Assembly may order in an Act dissolving the commission that any moneys remaining in the possession of the abolished commission on the effective date of the abolishment be refunded on a proportional basis to the persons who paid assessments to the commission during the assessment year in which the commission was abolished.

SECTION 35. Any sale of hemp by a producer or processor is a sale in commercial channels for the purposes of section 36 of this 2021 Act.

SECTION 36. Violation of any provision of sections 1 to 36 of this 2021 Act is a Class C misdemeanor.

SECTION 37. Sections 1 to 36 of this 2021 Act apply to hemp produced, processed, delivered, transferred or sold on and after the operative date specified in section 38 of this 2021 Act.

SECTION 38. (1) Sections 1 to 36 of this 2021 Act become operative on January 1, 2022.

(2) The Director of Agriculture, the State Department of Agriculture, the Department of Justice and the Oregon Department of Administrative Services may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the director and the departments to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the director and the departments by sections 1 to 36 of this 2021 Act.

SECTION 39. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House April 26, 2021

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

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Tina Kotek, Speaker of House

Passed by Senate June 2, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State