A-Engrossed House Bill 4061

Ordered by the House February 16 Including House Amendments dated February 16

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Agriculture, Land Use, and Water for Representative Ken Helm)

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.

[Authorizes Water Resources Director to petition for warrant authorizing entry onto land or inspection.]

Requires [person that owns or operates place of use at which hauled water is used for irrigation, nursery or agricultural purposes, or that hauls water to be used for irrigation, nursery or agricultural purposes,] certain water suppliers to maintain certain records for at least 12 months and provide records to law enforcement or Water Resources Department upon request.

Requires person that purchases water from water supplier at distribution location to be hauled for irrigation or nursery purposes to keep certain records for at least 12 months and provide records to law enforcement or department upon request.

Prohibits person [that owns or operates place of use at which hauled water is used for irrigation, nursery or agricultural purposes from soliciting or accepting hauled water from illegal source] from hauling water to, or arranging for hauling of water to, certain grow sites. Provides that violation with criminal negligence under certain circumstances is subject to maximum penalty of 364 days' imprisonment, \$25,000 fine, or both.

Prohibits person from [making false verbal or written statement or representation] willfully or negligently providing false information to law enforcement or department regarding [hauled water or] hauling of water related to plants in plant Cannabis family Cannabaceae. Authorizes imposition of civil penalties for violation [of requirements or prohibitions]. Provides that violation [of false statement or representation prohibition is subject to maximum penalty of 364 days' imprisonment, \$25,000 fine, or both] is subject to maximum penalty of 364 days' imprisonment, \$6,250 fine, or both.

Instructs Water Resources Commission to notify certain violators of time allowed to correct violation within 10 business days after commission becomes aware of violation.

[Provides that civil penalty for certain violations related to water resources may not exceed \$5,000 per day for each day of violation. Establishes exception for violation related to crop of plants in plant Cannabis family Cannabaceae, for which civil penalty may not exceed \$20,000 per day for each day of violation or economic value of crop, whichever is greater.] [Instructs commission to consider value of any crop of plants in plant Cannabis family Cannabaceae to which certain violations may relate when imposing civil penalty for violation.]

[Provides that certain violations related to water resources are Class A misdemeanors, that each

day of violation constitutes separate offense and that maximum fine is \$25,000.]

Takes effect on 91st day following adjournment sine die.

1	A BILL FOR AN ACT
2	Relating to water resources; creating new provisions; amending ORS 536.900 and 537.990; and pre-
3	scribing an effective date.
4	Be It Enacted by the People of the State of Oregon:
5	
6	HAULED WATER
7	
8	SECTION 1. (1) A water supplier that sells water to the public at a distribution location
9	authorized for hauled water by the water supplier shall:
10	(a) Maintain records of the water sales that include:

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.

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1	(A) The name and contact information of the person that purchased the water.
2	(B) The date of the sale.
3	(C) The quantity of the water.
4	(D) The license plate number of the vehicle used to haul the water.
5	(b) Retain the records for at least 12 months after the sales.
6	(c) Upon request by law enforcement or the Water Resources Department, immediately
7	provide the records.
8	(2) Notwithstanding subsection (1)(a) of this section, a water supplier is not required to
9	keep records of water sold:
10	(a) To state or local government bulk water purchasers.
11	(b) To contractors licensed by the Construction Contractors Board.
12	(c) In bulk to be used for firefighting purposes.
13	(3) Notwithstanding any contrary provision of law, a water supplier that provides records
14	under subsection (1)(c) of this section shall have immunity from any civil or criminal liabil-
15	ity:
16	(a) That might otherwise be incurred or imposed with respect to release of the records
17	and any data in the records.
18	(b) With respect to participating in any judicial proceeding that results from the release
19	of records or any data in the records.
20	(4) The Water Resources Commission may adopt rules to implement this section.
21	SECTION 2. (1) A person that purchases water from a water supplier at a distribution
22	location to be hauled for irrigation or nursery purposes shall:
23	(a) Keep records of:
23 24	(a) Keep records of:(A) The date and location of the purchase.
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24	(A) The date and location of the purchase.
24 25	(A) The date and location of the purchase.(B) The date on which the water is delivered.
24 25 26	(A) The date and location of the purchase.(B) The date on which the water is delivered.(C) If hauling water for another person, the name and contact information of the person
24 25 26 27	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery.
24 25 26 27 28	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water.
24 25 26 27 28 29	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is in-
24 25 26 27 28 29 30	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used.
24 25 26 27 28 29 30 31	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used.
24 25 26 27 28 29 30 31 32	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location
24 25 26 27 28 29 30 31 32 33	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location of use.
24 25 26 27 28 29 30 31 32 33 34	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location of use. (c) Upon request by law enforcement or the Water Resources Department, immediately
24 25 26 27 28 29 30 31 32 33 34 35	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location of use. (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records.
24 25 26 27 28 29 30 31 32 33 34 35 36	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location of use. (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records. (2) The Water Resources Commission may adopt rules to implement this section.
24 25 26 27 28 29 30 31 32 33 34 35 36 37	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location of use. (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records. (2) The Water Resources Commission may adopt rules to implement this section. <u>SECTION 3.</u> As soon as practicable after the effective date of this 2022 Act, the Oregon
24 25 26 27 28 29 30 31 32 33 34 35 36 37 38	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location of use. (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records. (2) The Water Resources Commission may adopt rules to implement this section. SECTION 3. As soon as practicable after the effective date of this 2022 Act, the Oregon Liquor and Cannabis Commission, the State Department of Agriculture and the Water Resources
24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location of use. (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records. (2) The Water Resources Commission may adopt rules to implement this section. SECTION 3. As soon as practicable after the effective date of this 2022 Act, the Oregon Liquor and Cannabis Commission, the State Department of Agriculture and the Water Resources Department shall make reasonable attempts to provide notice of the requirements
24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location of use. (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records. (2) The Water Resources Commission may adopt rules to implement this section. <u>SECTION 3.</u> As soon as practicable after the effective date of this 2022 Act, the Oregon Liquor and Cannabis Commission, the State Department of Agriculture and the Water Resources Department shall make reasonable attempts to provide notice of the requirements described in section 2 of this 2022 Act to potentially interested persons.
24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41	 (A) The date and location of the purchase. (B) The date on which the water is delivered. (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery. (D) The quantity of the water. (E) The intended use of the water, including the type of plant for which the water is intended to be used. (F) The location at which the water is used. (b) Retain the records for at least 12 months after the water is delivered to the location of use. (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records. (2) The Water Resources Commission may adopt rules to implement this section. SECTION 3. As soon as practicable after the effective date of this 2022 Act, the Oregon Liquor and Cannabis Commission, the State Department of Agriculture and the Water Resources Department shall make reasonable attempts to provide notice of the requirements described in section 2 of this 2022 Act to potentially interested persons. SECTION 4. (1) A person may not haul water to, or arrange for the hauling of water to,

45 (b) The crop of plants is in an amount that is not allowed under state law.

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1	(2) A person may not willfully or negligently provide false information to law enforcement
2	or the Water Resources Department regarding the hauling of water related to plants in the
3	plant Cannabis family Cannabaceae.
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5	PENALTIES
6	
7	SECTION 5. ORS 536.900 is amended to read:
8	536.900. (1) In addition to any other liability or penalty provided by law, the Water Resources
9	Commission may impose a civil penalty on a person for [any of the following] violation of:
10	(a) [Violation of any of the terms or conditions] A term or condition of a permit, certificate or
11	license issued under ORS chapters 536 to 543A.
12	(b) [Violation of] ORS 537.130 or 537.535.
13	(c) [Violation of] ORS 537.545 (5) or [of] a rule described in ORS 537.545 (7).
14	(d) [Violation of any] A commission rule or order [of the Water Resources Commission] that
15	pertains to well maintenance.
16	(e) [Violation of] ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435, 540.440,
17	540.570 (5), 540.710, 540.720 and 540.730 or rules adopted under ORS 540.145.
18	(f) Section 2 or 4 (2) of this 2022 Act.
19	(2) A civil penalty may be imposed under this section for each day of violation of ORS 537.130,
20	537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710, 540.720 or 540.730.
21	(3) In the event the petitioner knowingly misrepresents the map and petition required in ORS
22	541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established
23	by the commission. In addition, the petition and map shall be amended to correct the error at the
24	petitioner's cost. Affected users shall be given notice as provided in ORS 541.329 (5).
25	(4) A civil penalty may not be imposed until the commission prescribes a reasonable time to
26	eliminate the violation. The commission shall notify the violator of the time allowed to correct a
27	violation within [five] 10 business days after the commission first becomes aware of the violation.
28	(5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the
29	use of water under ORS 540.150 may not be considered a violation under subsection (1) of this sec-
30	tion.
31	SECTION 6. ORS 537.990 is amended to read:
32	537.990. (1) Violation of ORS 537.130 (2) is a Class B misdemeanor.
33	(2) Any person who willfully diverts or uses water to the detriment of others without compliance
34	with law shall be punished as provided in subsection (1) of this section. The possession or use of
35	water, except when a right of use is acquired in accordance with law, shall be prima facie evidence
36	of the guilt of the person using it.
37	(3) Violation of ORS 537.535 (1) or 537.747 is a Class B misdemeanor.
38	(4) Violation of section 4 (2) of this 2022 Act is a Class A misdemeanor.
39	(5)(a) Violation of section 4 (1) of this 2022 Act with criminal negligence, as defined in
40	ORS 161.085, is a Class A misdemeanor.
41	(b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this
42	subsection is \$25,000 if the person:
43	(A) Owns a water hauling business; or
44	(B) Owns, operates or is responsible for the grow site to which the water was hauled or
45	arranged to be hauled.

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1	(6)(a) Notwithstanding subsections (1) to (3) of this section, violation of ORS 537.130 (2)
2	or 537.535 that concerns the use of water at a grow site for a crop of plants in the plant
3	Cannabis family Cannabaceae is a Class A misdemeanor if:
4	(A) The grow site is not registered or licensed under ORS 475C.065, 475C.792 or 571.281;
5	and
6	(B) The crop of plants is in an amount that is not allowed under state law.
7	(b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this
8	subsection is \$25,000.
9	SECTION 7. The amendments to ORS 536.900 and 537.990 by sections 5 and 6 of this 2022
10	Act apply to offenses committed on or after the effective date of this 2022 Act.
11	
12	CAPTIONS
13	
14	SECTION 8. The unit captions used in this 2022 Act are provided only for the convenience
15	of the reader and do not become part of the statutory law of this state or express any leg-
16	islative intent in the enactment of this 2022 Act.
17	
18	EFFECTIVE DATE
19	
20	SECTION 9. This 2022 Act takes effect on the 91st day after the date on which the 2022
21	regular session of the Eighty-first Legislative Assembly adjourns sine die.
22	