

HB 4061-1
(LC 164)
2/7/22 (AG/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE, LAND USE, AND WATER (at the request of Representative Ken Helm)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4061**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest
2 of the line and delete line 3 and insert “amending ORS 536.900 and 537.990;
3 and prescribing an effective date.”.

4 Delete lines 5 through 19 and delete pages 2 through 4 and insert:

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“HAULED WATER

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8 **“SECTION 1. A city or county that sells water to the public at fill
9 stations for hauled water shall:**

10 **“(1) Maintain records of the water sales which shall include:**

11 **“(a) The name of the person that purchased the water.**

12 **“(b) The stated purpose of the use of the water.**

13 **“(c) The quantity of the water.**

14 **“(d) If the water is delivered, the location to which the water is
15 delivered.**

16 **“(e) If the water is not delivered, the license plate number of the
17 vehicle used to haul the water.**

18 **“(2) Upon request by law enforcement or the Water Resources De-
19 partment, immediately provide the records of water sales.**

20 **“(3) Retain the records of water sales for at least 12 months.**

21 **“SECTION 2. A person may haul water to a grow site for plants in**

1 the plant Cannabis family Cannabaceae only if the grow site is regis-
2 tered or licensed under ORS 475C.065, 475C.792 or 571.281.

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4 **“WATER STATEMENTS**

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6 **“SECTION 3. (1) A person shall provide a water statement to the**
7 **Water Resources Department if the person:**

8 **“(a) Applies for a new license under ORS 475C.065 or 571.281.**

9 **“(b) Applies to renew a license under ORS 475C.065 or 571.281. This**
10 **paragraph applies only to the person’s first renewal of the license on**
11 **or after the effective date of this 2022 Act.**

12 **“(c) Proposes to modify an application or license under ORS**
13 **475C.065 or 571.281 by changing a grow site or greenhouse location or**
14 **expanding the footprint of agricultural hemp seed production.**

15 **“(2) The Water Resources Department shall verify a water state-**
16 **ment provided under this section and subsequently send the water**
17 **statement to:**

18 **“(a) The Oregon Liquor and Cannabis Commission if the water**
19 **statement relates to a license under ORS 475C.065.**

20 **“(b) The State Department of Agriculture if the water statement**
21 **relates to a license under ORS 571.281.**

22 **“(3) If the Water Resources Department determines that informa-**
23 **tion in the water statement is inaccurate or the water statement does**
24 **not identify a legal source of water:**

25 **“(a) The Oregon Liquor and Cannabis Commission may refuse to**
26 **issue, renew or allow modification of a license under ORS 475C.065 to**
27 **which the water statement relates.**

28 **“(b) The State Department of Agriculture may refuse to issue, re-**
29 **new or allow modification of a license under ORS 571.281 to which the**
30 **water statement relates.**

1 “(4) The Water Resources Department shall adopt rules to imple-
2 ment this section, including rules that define the term ‘water state-
3 ment’ for purposes of this section. The definition must provide that a
4 water statement includes:

5 “(a) The locations of grow sites.

6 “(b) The quantity of water to be used.

7 “(c) The legal sources of the water to be used.

8 “SECTION 4. The Oregon Liquor and Cannabis Commission may:

9 “(1) As described in section 3 of this 2022 Act, refuse to issue, renew
10 or allow modification of a license under ORS 475C.065.

11 “(2) Adopt rules necessary to implement the provisions related to
12 water statements that are described in section 3 of this 2022 Act.

13 “SECTION 5. The State Department of Agriculture may:

14 “(1) As described in section 3 of this 2022 Act, refuse to issue, renew
15 or allow modification of a license under ORS 571.281.

16 “(2) Adopt rules necessary to implement the provisions related to
17 water statements that are described in section 3 of this 2022 Act.

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19 **“PENALTIES**

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21 “SECTION 6. ORS 536.900 is amended to read:

22 “536.900. (1) In addition to any other liability or penalty provided by law,
23 the Water Resources Commission may impose a civil penalty on a person for
24 [*any of the following*] **violation of:**

25 “(a) [*Violation of any of the terms or conditions*] **A term or condition** of
26 a permit, certificate or license issued under ORS chapters 536 to 543A.

27 “(b) [*Violation of*] ORS 537.130 or 537.535.

28 “(c) [*Violation of*] ORS 537.545 (5) or [*of*] a rule described in ORS 537.545
29 (7).

30 “(d) [*Violation of any*] **A commission** rule or order [*of the Water Re-*

1 *sources Commission*] that pertains to well maintenance.

2 “(e) [*Violation of*] ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330,
3 540.340, 540.435, 540.440, 540.570 (5), 540.710, 540.720 and 540.730 or rules
4 adopted under ORS 540.145.

5 “(2) A civil penalty may be imposed under this section for each day of
6 violation of ORS 537.130, 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710,
7 540.720 or 540.730.

8 “(3) In the event the petitioner knowingly misrepresents the map and pe-
9 tition required in ORS 541.329, the commission may assess a penalty of up
10 to \$1,000 based upon guidelines to be established by the commission. In ad-
11 dition, the petition and map shall be amended to correct the error at the
12 petitioner’s cost. Affected users shall be given notice as provided in ORS
13 541.329 (5).

14 “(4) A civil penalty may not be imposed until the commission prescribes
15 a reasonable time to eliminate the violation. The commission shall notify the
16 violator of the time allowed to correct a violation within [*five*] **10 business**
17 days after the commission first becomes aware of the violation.

18 “(5) Notwithstanding any term or condition of a permit, certificate or li-
19 cense, the rotation of the use of water under ORS 540.150 may not be con-
20 sidered a violation under subsection (1) of this section.

21 **“SECTION 7.** ORS 537.990 is amended to read:

22 “537.990. (1) Violation of ORS 537.130 (2) is a Class B misdemeanor.

23 “(2) Any person who willfully diverts or uses water to the detriment of
24 others without compliance with law shall be punished as provided in sub-
25 section (1) of this section. The possession or use of water, except when a
26 right of use is acquired in accordance with law, shall be prima facie evidence
27 of the guilt of the person using it.

28 “(3) Violation of ORS 537.535 (1) or 537.747 is a Class B misdemeanor.

29 **“(4)(a) Violation of section 2 of this 2022 Act with criminal**
30 **negligence, as defined in ORS 161.085, is a Class A misdemeanor.**

1 “(b) Notwithstanding ORS 161.635, the maximum fine for a violation
2 described in this subsection is \$25,000.

3 “(5)(a) Notwithstanding subsections (1) to (3) of this section, vio-
4 lation of ORS 537.130 (2) or 537.535 is a Class A misdemeanor if the vi-
5 olation concerns use of water related to a crop of plants in the plant
6 Cannabis family Cannabaceae:

7 “(A) At a location that is not confirmed by the Oregon Health Au-
8 thority, the Oregon Liquor and Cannabis Commission or the State
9 Department of Agriculture to be the location of an industrial hemp
10 operation registered or licensed under ORS 571.281, a premises for
11 which a license was issued under ORS 475C.085 or a marijuana grow
12 site registered under ORS 475C.792; and

13 “(B) In an amount that is not allowed under state law.

14 “(b) Notwithstanding ORS 161.635, the maximum fine for a violation
15 described in this subsection is \$25,000.

16 “SECTION 8. The amendments to ORS 536.900 and 537.990 by
17 sections 6 and 7 of this 2022 Act apply to offenses committed on or
18 after the operative date specified in section 9 (2) of this 2022 Act.

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“OPERATIVE DATES

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22 “SECTION 9. (1) Sections 3, 4 and 5 of this 2022 Act become opera-
23 tive on November 1, 2022.

24 “(2) Sections 1, 2 and 8 of this 2022 Act and the amendments to ORS
25 536.900 and 537.990 by sections 6 and 7 of this 2022 Act become operative
26 on January 1, 2023.

27 “(3) Before the operative date specified in subsection (1) of this
28 section, the Water Resources Department, the Oregon Liquor and
29 Cannabis Commission and the State Department of Agriculture may
30 take any actions the departments and commission deem necessary to

1 prepare to implement sections 3, 4 and 5 of this 2022 Act.

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“CAPTIONS

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5 **“SECTION 10. The unit captions used in this 2022 Act are provided**
6 **only for the convenience of the reader and do not become part of the**
7 **statutory law of this state or express any legislative intent in the**
8 **enactment of this 2022 Act.**

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“EFFECTIVE DATE

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12 **“SECTION 11. This 2022 Act takes effect on the 91st day after the**
13 **date on which the 2022 regular session of the Eighty-first Legislative**
14 **Assembly adjourns sine die.”.**

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