

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 water supplier that sells water to the public at a distribution location authorized by the supplier for hauled water shall maintain records of water sales information, to include: (1) the name and contact information of the person water was sold to; (2) the quantity of water sold; (3) the license plate number of the vehicle used to haul water; and the (4) purchase date. The water supplier shall provide this documentation immediately upon request to OWRD or law enforcement. The water supplier shall retain those records for 12 months from the date of sale.

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10 Section 2. (1) Any water supplier providing water usage records or data to law enforcement officers or the Water Resources Department shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed with respect to release of such records or data under Section (1). (2) Any water supplier shall also have the same immunity with respect to participating in any judicial proceeding resulting from the release of records or data under Section (1).

11 Section 3. For the purposes of Section (1), water suppliers are not required to keep the records described in Section (1) of water sold to: (a) State and local governmental bulk water purchasers; (b) contractors licensed by the Oregon Construction Contractors Board; (c) bulk water used for firefighting purposes.

Section 4. (1) Persons purchasing water from a water supplier at a distribution location to be hauled for irrigation and nursery purposes are required to keep and maintain records of:

(a) The date and location of the purchase;

(b) If hauling water for another person, the name of the person and contact information of the person to whom the water was sold or delivered;

(c) The quantity of water hauled or delivered;

(d) The intended purpose of the water use, including plant type; and

(e) The date of delivery and location of the water use.

(2) The purchaser shall retain records for 12 months from the date of delivery to the location of use.

(3) The Oregon Water Resources Commission may adopt rules to implement this section.

(4) The purchaser shall provide these records immediately upon request to OWRD or law enforcement.

Section 5. Prior to the requirements in subsection (4) going into effect OWRD, OLCC and ODA shall provide reasonable assistance in providing notice of the record keeping requirements.

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~~9 "SECTION 1. A city or county that sells water to the public at fill
10 stations for hauled water shall:~~

~~11 "(1) Maintain records of the water sales which shall include:~~

~~12 "(a) The name of the person that purchased the water.~~

~~13 "(b) The stated purpose of the use of the water.~~

~~14 "(c) The quantity of the water.~~

~~15 "(d) If the water is delivered, the location to which the water is
16 delivered.~~

~~17 "(e) If the water is not delivered, the license plate number of the
18 vehicle used to haul the water.~~

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

~~218 "(3) Retain the records of water sales for at least 12 months.~~

229 "SECTION 62. A person may not haul water or arrange for the
hauling of water to a grow site for plants in

1 the plant Cannabis family Cannabaceae only if the grow site is not regis-

2 tered or licensed under ORS 475C.065, 475C.792 or 571.2813

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~~“WATER STATEMENTS~~

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

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

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

6 ~~“(c) Proposes to modify an application or license under ORS~~
7 ~~475C.065 or 571.281 by changing a grow site or greenhouse location or~~
8 ~~expanding the footprint of agricultural hemp seed production.~~

9 ~~“(2) The Water Resources Department shall verify a water state-~~
10 ~~ment provided under this section and subsequently send the water~~
11 ~~statement to:~~

12 ~~“(a) The Oregon Liquor and Cannabis Commission if the water~~
13 ~~statement relates to a license under ORS 475C.065.~~

14 ~~“(b) The State Department of Agriculture if the water statement~~
15 ~~relates to a license under ORS 571.281.~~

16 ~~“(3) If the Water Resources Department determines that informa-~~
17 ~~tion in the water statement is inaccurate or the water statement does~~
18 ~~not identify a legal source of water:~~

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

22 ~~“(b) The State Department of Agriculture may refuse to issue, re-~~
23 ~~new or allow modification of a license under ORS 571.281 to which the~~
24 ~~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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“PENALTIES

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21 ~~“SECTION 76. 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 87.** 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 **26** 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 **if the person is an owner of a water
hauling business or responsible party for a cannabis grow operation.**

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.

1 (6)(a) A person may not willfully or negligently provide false information to the
Water Resources Department or law enforcement regarding the hauling of
water for a crop of plants in the plant

12 Cannabis family Cannabaceae. (b) Violation of subsection (a) is a class A
misdemeanor.

3 _____

4 New Section (Section 9): A person may not willfully or negligently provide false
information to the Water Resources Department regarding the hauling of
water for a crop of plants in the plant

5 Cannabis family Cannabaceae.

New Section (Section 10): Amending 536.900 Civil penalties; imposition. (1) In
addition to any other liability or penalty provided by law, the Water Resources
Commission may impose a civil penalty on a person for any of the following:

(a) Violation of any of the terms or conditions of a permit, certificate or license
issued under ORS chapters 536 to 543A.

(b) Violation of ORS 537.130 or 537.535.

(c) Violation of ORS 537.545 (5) or of a rule described in ORS 537.545 (7).

(d) Violation of any rule or order of the Water Resources Commission that pertains
to well maintenance.

(e) Violation of ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330,
540.340, 540.435, 540.440, 540.570 (5), 540.710, 540.720 and 540.730 or rules adopted
under ORS 540.145.

(f) Violation of section 4 under this 2022 act.

(g) Violation of section 9 under this 2022 act.

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

(3) In the event the petitioner knowingly misrepresents the map and petition required in ORS 541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established by the commission. In addition, the petition and map shall be amended to correct the error at the petitioner's cost. Affected users shall be given notice as provided in ORS 541.329 (5).

(4) A civil penalty may not be imposed until the commission prescribes a reasonable time to eliminate the violation. The commission shall notify the violator of the time allowed to correct a violation within five days after the commission first becomes aware of the violation.

(5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the use of water under ORS 540.150 may not be considered a violation under subsection (1) of this section. [1989 c.618 §1; 1991 c.869 §5; 1993 c.818 §5; 1999 c.873 §21; 2001 c.788 §§6,12; 2003 c.705 §§17,18; 2009 c.819 §2; 2021 c.610 §20a]

~~“SECTION 811. The amendments to ORS 536.900 and 537.990 by sections 6 and 7 of this 2022 Act apply to offenses committed on or after the operative-effective date specified in section 9 (2) of this 2022 Act.~~

~~“OPERATIVE DATES~~

~~“SECTION 9. (1) Sections 3, 4 and 5 of this 2022 Act become operative on November 1, 2022.~~

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

~~“(3) Before the operative date specified in subsection (1) of this section, the Water Resources Department, the Oregon Liquor and Cannabis Commission and the State Department of Agriculture may take any actions the departments and commission deem necessary to _____ prepare to implement sections 3, 4 and 5 of this 2022 Act.~~

3 "CAPTIONS

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5 "SECTION ~~10~~12. 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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10 "EFFECTIVE DATE

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12 "SECTION ~~11~~13. 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."
15 _____