

SB 326 -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/2, 3/28

WHAT THE MEASURE DOES:

Requires real property owners to clean up waste on site used for an illegal cannabis operation, permits a city or county to pursue a civil proceeding for public nuisance abatement, provides attorney fees for the prevailing party in such proceeding, and allows a city or county to file a claim of lien on real property at the site of the illegal operation. Defines waste to include any part of a marijuana plant, irrigation materials, hoop houses and similar structures, and chemicals that the Department of Environmental Quality is authorized to clean up related to illegal drug manufacturing. Prohibits the use of permitted water rights or use of ground water at illegal cannabis grow sites, and permits the Oregon Water Resources Department to impose a civil penalty. Allows law enforcement to request judicial authorization to use mobile tracking devices, wiretaps, and pen register trap and trace devices related to illegal cannabis operation enforcement. Creates a Class B felony for possession of marijuana items that exceed 32 times allowable amounts, or manufacture of more than 100 mature or immature plants, or when accompanied by specified reckless unlawful conduct or knowing unlawful conduct related to working conditions or environmental factors. Specifies classification for reckless unlawful conduct is a crime category six (6) of the Criminal Justices Commission sentencing grid, and classification of knowing unlawful conduct is a category eight (8). Declares emergency, effective on passage.

REVENUE: Has minimal revenue impact

FISCAL: Fiscal impact with explanatory statement issued

ISSUES DISCUSSED:

- Origins of task force
- Scope of labor trafficking and environmental degradation
- Removing marijuana from controlled substances act inadvertently removed tools needed to address illegal operations
- Theft of water has increased and exacerbates drought problems
- Owner ignorance of how property is being used
- Ensuring cleanup in accordance with environmental laws
- Exemption already exists for persons regulated under the Oregon Medical Marijuana Program

EFFECT OF AMENDMENT:

-2 Permits an owner of leased property to retain irrigation materials, agricultural structures, or chemicals belonging to the owner, when the land was leased to a third party who engaged in unlawful production of marijuana, and the owner elects to properly care for the irrigation materials or agricultural structures, or to properly store the chemicals. Adds disposal and remediation to the definition of cleanup and specifies that cleanup must be in conformance with applicable laws. Defines law enforcement agency by reference to existing statute. Expands unlawful use or collection of water for unlawful cannabis production to include rainwater catchment and groundwater uses otherwise exempted from groundwater requirements.

BACKGROUND:

The Task Force on Cannabis-Derived Intoxicants and Illegal Cannabis Operations was created by House Bill 3000 (2021), and then expanded by Senate Bill 1564 (2021) to recommend legislative changes supporting law

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enforcement's response to illegal cannabis operations. The Task Force agreed upon several recommendations, including those contained in Senate Bill 326.

Senate Bill 326 requires landowners to cleanup sites of illegal cannabis production and permits enforcement of cleanup through public nuisance proceedings, prohibits water use for an illegal cannabis operation, permits authorization of surveillance tools for illegal cannabis operation enforcement, and creates enhanced penalties for operations that involve large quantities, environmental violations, or labor violations or other indicia of labor trafficking.