

**SB 326 A STAFF MEASURE SUMMARY****Carrier:** Sen. Prozanski, Sen. Prozanski**Senate Committee On Judiciary**


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**Action Date:** 03/28/23  
**Action:** Do pass with amendments. (Printed A-Eng.)  
**Vote:** 3-2-0-0  
**Yeas:** 3 - Gelser Blouin, Manning Jr, Prozanski  
**Nays:** 2 - Linthicum, Thatcher  
**Fiscal:** Fiscal impact issued  
**Revenue:** Has minimal revenue impact  
**Prepared By:** Patricia Pascone, LPRO Analyst  
**Meeting Dates:** 2/2, 3/28

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**WHAT THE MEASURE DOES:**

Requires real property owners to clean up waste on sites 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 (agricultural structures), and chemicals that the Department of Environmental Quality is authorized to clean up related to illegal drug manufacturing. Defines cleanup to include disposal and remediation and requires cleanup to conform with applicable laws. 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. 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 or knowing unlawful conduct related to working conditions or environmental factors. Specifies classification for reckless unlawful conduct is a crime category six on the Criminal Justice Commission's sentencing grid, and classification of knowing unlawful conduct is a crime category of eight. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Origins of task force
- Scope of labor trafficking and environmental impacts from illegal cannabis operations
- Removing marijuana from controlled substances act inadvertently removed law enforcement ability to use surveillance tools
- Theft of water has increased and exacerbates drought problems
- Owner knowledge or ignorance of how property is being used by others
- Ensuring cleanup in accordance with environmental laws
- Exemption already exists for persons regulated under the Oregon Medical Marijuana Program

**EFFECT OF AMENDMENT:**

Permits owner of leased property to retain irrigation materials, agricultural structures, or chemicals belonging to the owner, when 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 conform

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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 registration, certification, or permitting 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 (2022) to recommend legislative changes to support law enforcement's response to illegal cannabis operations. The Task Force agreed upon several recommendations, including those contained in Senate Bill 326 as introduced.

Senate Bill 326 A requires landowners to clean up sites of illegal cannabis production and permits enforcement of cleanup through public nuisance proceedings, prohibits water use for an illegal cannabis operation, permits warrants to authorize use of surveillance tools for illegal cannabis operation enforcement, and sets higher penalties for operations that involve large quantities, environmental violations, or certain labor violations.