

SB 326 A STAFF MEASURE SUMMARY

Carrier: Rep. Morgan

House Committee On Judiciary**Action Date:** 05/16/23**Action:** Do Pass the A-Eng bill.**Vote:** 9-1-0-0**Yeas:** 9 - Andersen, Bynum, Chaichi, Conrad, Kropf, Lewis, Reynolds, Tran, Wallan**Nays:** 1 - Morgan**Fiscal:** Fiscal impact issued**Revenue:** Has minimal revenue impact**Prepared By:** Patricia Pascone, LPRO Analyst**Meeting Dates:** 5/4, 5/16**WHAT THE MEASURE DOES:**

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 factors, including certain labor and environmental violations and acts related to labor trafficking. 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. 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. Prohibits the use of surface water, ground water, or precipitation water for illegal cannabis manufacture or production, and allows the Oregon Water Resources Department to impose a civil penalty. Requires real property owners to undertake cleanup of waste on sites used for illegal cannabis operations and classifies an owner's failure to do so after 30 days' notice a public nuisance. Permits a city or county to bring a civil proceeding after expiration of the 30-day notice to pursue (a) public nuisance abatement, (b) a claim of lien for costs of cleanup undertaken by the city or county, and (c) enjoining any further violations. Provides reasonable attorney fees and expenses for the prevailing party in such proceeding. 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 removal, 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 or manufacture of marijuana, and the owner elects to properly care for the irrigation materials or agricultural structures, or to properly store the chemicals. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- House Bill 3000 - Senate Bill 1564 Task Force background
- Case counts are up with smaller and more indoor sites
- Geographic spread of illegal sites
- Absentee landowners
- County nuisance abatement process
- Law enforcement tools inadvertently removed when marijuana was taken out of controlled substances
- Measure would not change process for seizure of cash or funds
- Illegal sites are associated with homicides, robberies, environmental degradation, water theft, involuntary servitude, humanitarian issues and fires
- Currently no difference in penalty for 13 plants versus 100,000 plants
- Oregon State Police enforcement not fully funded

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EFFECT OF AMENDMENT:

No amendment.

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's Law Enforcement Subcommittee heard from law enforcement about the need to address problems from larger and increasingly complex illegal cannabis operations by drug trafficking organizations. These included: the need for multi-jurisdiction warrants and increased judicial availability for issuing warrants; clarifying for judges the types of personnel that may be needed to ensure safety during execution of the warrant; the need for increased penalties relating to large quantities; the need to address labor trafficking, water theft, and environmental harms from the illegal operations; and addressing the cleanup of illegal cannabis sites after law enforcement action. The Task Force agreed upon several recommendations, including those contained in introduced versions of Senate Bill 326 and Senate Bill 954.

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