

# Senate Bill 531

Sponsored by Senator L BEYER (at the request of Mapleton High School students)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits growing of industrial hemp. Authorizes State Department of Agriculture to administer licensing and inspection program. Authorizes civil penalty not exceeding \$2,500.

## A BILL FOR AN ACT

1 Relating to industrial hemp; creating new provisions; and amending ORS 475.005 and 561.144.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. As used in sections 1 to 4 of this 2001 Act:**

4 (1) "Agricultural seed" means industrial hemp seed that meets any labeling, quality and  
5 other standards set by the Director of Agriculture and that is intended for sale or is sold to,  
6 or purchased by, licensed growers for planting.

7 (2) "Crop" means any contiguous field of industrial hemp grown under a single license.

8 (3) "Department" means the State Department of Agriculture.

9 (4) "Grower" means a person, as defined in ORS 174.100, joint venture or cooperative that  
10 produces industrial hemp.

11 (5) "Handler" means a person, as defined in ORS 174.100, joint venture or cooperative  
12 that receives industrial hemp for processing into commodities, products or agricultural seed.

13 (6) "Industrial hemp" means all parts and varieties of the plant *Cannabis sativa*, whether  
14 growing or not, that contain a tetrahydrocannabinol concentration, the average of which  
15 may not exceed one percent on a dry weight basis and that are cultivated or possessed by a  
16 grower or handler in compliance with the provisions of sections 1 to 4 of this 2001 Act. "In-  
17 dustrial hemp" is separate and distinct from marijuana. "Industrial hemp" does not include  
18 products made from industrial hemp, such as building materials, cloth, cordage, fiber, food,  
19 fuel, industrial chemicals, paint, paper, particle board, floor coverings, plastics, seed meal,  
20 seed oil for consumption or yarn and does not include seed other than seed that is part of  
21 a growing crop or seed that is retained by a grower for future planting and agricultural seed.

22 **SECTION 2. Industrial hemp production and possession and commerce in industrial hemp**  
23 **are authorized in this state. Industrial hemp is an agricultural product and subject to reg-**  
24 **ulation by the State Department of Agriculture.**

25 **SECTION 3. (1) All growers or handlers of industrial hemp must have an industrial hemp**  
26 **license as prescribed by the rules of the State Department of Agriculture.**

27 (2) Every grower or handler of industrial hemp shall keep records as prescribed by the  
28 department.

29 (3) The department may inspect the industrial hemp crop of any person granted a  
30 grower's license pursuant to this section during the crop's growth phase. For inspection  
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NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 purposes, the department shall take a representative composite sample of the total crop for  
2 field analysis. The dispute settlement system of the department shall be used when neces-  
3 sary. The average tetrahydrocannabinol concentration in the crop may not exceed one per-  
4 cent on a dry weight basis.

5 (4) Subject to department guidelines, growers may retain seeds from each crop to ensure  
6 a sufficient supply of seeds for that grower for the following year. A grower retaining seeds  
7 for future planting does not need an agricultural seed production permit described under  
8 subsection (5) of this section. Seed retained by a grower may not be resold and does not need  
9 to meet agricultural seed standards.

10 (5) The department may issue agricultural seed production permits to allow growers and  
11 handlers of industrial hemp to produce agricultural seed. The department may inspect re-  
12 cords, growing crops, warehouses and processing and other facilities used in the production  
13 of agricultural seed. A person offering industrial hemp seed for sale to growers shall ensure  
14 that the industrial hemp seed complies with any standards set by the Director of Agriculture  
15 under ORS 633.511 to 633.750. The department shall make available to growers information  
16 that identifies sellers of agricultural seed.

17 (6) The department may charge reasonable fees in amounts determined by the depart-  
18 ment as necessary for purposes of carrying out the duties of the department under this  
19 section.

20 **SECTION 4.** In addition to any other liability or penalty provided by law, the State De-  
21 partment of Agriculture may revoke or refuse to issue an industrial hemp license or an ag-  
22 ricultural seed production permit and may impose a civil penalty on a grower or handler for  
23 any of the following:

24 (1) Violation of a license or permit requirement created by rule of the department under  
25 section 3 of this 2001 Act.

26 (2) Violation of any of the terms or conditions of an industrial hemp license or an agri-  
27 cultural seed production permit issued under section 3 of this 2001 Act.

28 (3) Violation of any rule or general order of the department that pertains to agriculture  
29 or industrial hemp.

30 (4) Violation of any final order of the department that pertains specifically to the oper-  
31 ations or activities of the grower or handler.

32 **SECTION 5.** (1) A civil penalty imposed under section 4 of this 2001 Act may not exceed  
33 \$2,500.

34 (2) The revocation of or refusal to issue an industrial hemp license or an agricultural  
35 seed production permit, or the imposition of a civil penalty under section 4 of this 2001 Act,  
36 shall be subject to ORS 183.310 to 183.550.

37 **SECTION 6.** ORS 475.005 is amended to read:

38 475.005. As used in ORS 475.005 to 475.285 and 475.940 to 475.995, unless the context requires  
39 otherwise:

40 (1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or  
41 medical supervision, which may have a detrimental effect on the individual or society.

42 (2) "Administer" means the direct application of a controlled substance, whether by injection,  
43 inhalation, ingestion or any other means, to the body of a patient or research subject by:

44 (a) A practitioner or an authorized agent thereof; or

45 (b) The patient or research subject at the direction of the practitioner.

1 (3) "Administration" means the Drug Enforcement Administration of the United States Depart-  
2 ment of Justice, or its successor agency.

3 (4) "Agent" means an authorized person who acts on behalf of or at the direction of a man-  
4 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public  
5 warehouseman or employee of the carrier or warehouseman.

6 (5) "Board" means the State Board of Pharmacy.

7 (6) "Controlled substance" means a drug or its immediate precursor classified in Schedules I  
8 through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS  
9 475.035. The use of the term "precursor" in this subsection does not control and is not controlled  
10 by the use of the term "precursor" in ORS 475.940, 475.950 and 475.955. **"Controlled substance"**  
11 **does not include industrial hemp, as defined in section 1 of this 2001 Act, or products made**  
12 **from industrial hemp.**

13 (7) "Counterfeit substance" means a controlled substance or its container or labeling, which,  
14 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number  
15 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person  
16 who in fact manufactured, delivered or dispensed the substance.

17 (8) "Deliver" or "delivery" means the actual, constructive or attempted transfer, other than by  
18 administering or dispensing, from one person to another of a controlled substance, whether or not  
19 there is an agency relationship.

20 (9) "Device" means instruments, apparatus or contrivances, including their components, parts  
21 or accessories, intended:

22 (a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or  
23 animals; or

24 (b) To affect the structure of any function of the body of humans or animals.

25 (10) "Dispense" means to deliver a controlled substance to an ultimate user or research subject  
26 by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering,  
27 packaging, labeling or compounding necessary to prepare the substance for that delivery.

28 (11) "Dispenser" means a practitioner who dispenses.

29 (12) "Distributor" means a person who delivers.

30 (13) "Drug" means:

31 (a) Substances recognized as drugs in the official United States Pharmacopoeia, official  
32 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement  
33 to any of them;

34 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of  
35 disease in humans or animals;

36 (c) Substances (other than food) intended to affect the structure or any function of the body of  
37 humans or animals; and

38 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or  
39 (c) of this subsection; however, the term does not include devices or their components, parts or ac-  
40 cessories.

41 (14) "Manufacture" means the production, preparation, propagation, compounding, conversion  
42 or processing of a controlled substance, either directly or indirectly by extraction from substances  
43 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction  
44 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or  
45 relabeling of its container, except that this term does not include the preparation or compounding

1 of a controlled substance:

2 (a) By a practitioner as an incident to administering or dispensing of a controlled substance in  
3 the course of professional practice; or

4 (b) By a practitioner, or by an authorized agent under the practitioner's supervision, for the  
5 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

6 (15) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or  
7 not; the resin extracted from any part of the plant; and every compound, manufacture, salt, deriva-  
8 tive, mixture[,] or preparation of the plant or its resin[. *It*] **except industrial hemp, as defined in**  
9 **section 1 of this 2001 Act, or products made from industrial hemp. "Marijuana" does not in-**  
10 **clude the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds**  
11 **of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the ma-**  
12 **ture stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the**  
13 **plant which is incapable of germination. "Marijuana" also does not include industrial hemp**  
14 **seeds that are part of a growing licensed crop, that are retained by a licensed grower for**  
15 **future planting or that are held by a licensed grower or handler as agricultural seed under**  
16 **the provisions of section 3 of this 2001 Act.**

17 (16) "Person" includes a government subdivision or agency, business trust, estate, trust or any  
18 other legal entity.

19 (17) "Practitioner" means physician, dentist, veterinarian, scientific investigator, certified nurse  
20 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law  
21 to dispense, conduct research with respect to or to administer a controlled substance in the course  
22 of professional practice or research in this state but does not include a pharmacist or a pharmacy.

23 (18) "Prescription" means a written or oral direction, given by a practitioner for the preparation  
24 and use of a drug. When the context requires, "prescription" also means the drug prepared under  
25 such written or oral direction. Any label affixed to a drug prepared under written or oral direction  
26 shall prominently display a warning that the removal thereof is prohibited by law.

27 (19) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a  
28 controlled substance.

29 (20) "Research" means an activity conducted by the person registered with the federal Drug  
30 Enforcement Administration pursuant to a protocol approved by the United States Food and Drug  
31 Administration.

32 (21) "Ultimate user" means a person who lawfully possesses a controlled substance for the use  
33 of the person or for the use of a member of the household of the person or for administering to an  
34 animal owned by the person or by a member of the household of the person.

35 **SECTION 7.** ORS 561.144 is amended to read:

36 561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund which  
37 shall be a trust fund separate from the General Fund and included under ORS 293.115 (6), and which  
38 shall not be subject to ORS 293.105 and 293.110. The State Department of Agriculture shall deposit  
39 all license and service fees paid to it under the provisions of the statutes identified in subsection (3)  
40 of this section in the Department of Agriculture Service Fund. The State Treasurer is the custodian  
41 of this trust fund which shall be deposited by the treasurer in such depositories as are authorized  
42 to receive deposits of the General Fund, and which may be invested by the treasurer in the same  
43 manner as authorized by ORS 293.701 to 293.820.

44 (2) Notwithstanding ORS 293.140, interest received on deposits credited to the Department of  
45 Agriculture Service Fund shall accrue to and become a part of the Department of Agriculture Ser-

1 vice Fund.

2 (3) The license and service fees subject to this section are those described in ORS 561.400,  
3 570.710, 571.057, 571.063, 571.145, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050, 586.270, 586.580,  
4 586.650, 596.030, 596.311, 599.235, 599.269, 599.406, 599.610, 600.030, 601.040, 602.090, 603.025, 603.075,  
5 616.706, 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730, 622.080, 625.180,  
6 628.240, 632.211, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015, 633.029, 633.361,  
7 633.460, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126, 634.132, 634.136, 634.212 and  
8 635.030 **and section 3 of this 2001 Act.**

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