

69th OREGON LEGISLATIVE ASSEMBLY--1997 Regular Session

NOTE: Matter within { + braces and plus signs + } in an amended section is new. Matter within { - braces and minus signs - } is existing law to be omitted. New sections are within { + braces and plus signs + } .

LC 1961

House Bill 3623

Sponsored by Representative PROZANSKI (at the request of Living Tree Paper Company and Adventure Smiths)

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. Provides for State Department of Agriculture to administer licensing and inspection program. Provides for civil penalties.

A BILL FOR AN ACT

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

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

SECTION 1. { + As used in sections 1 to 4 of this Act:

(1) 'Crop' means any contiguous field of industrial hemp grown under a single permit.

(2) 'Department' means the State Department of Agriculture.

(3) 'Grower' means any person, as defined in ORS 174.100, that produces industrial hemp.

(4) 'Handler' means any person, partnership, association, corporation, including joint ventures, or cooperatives that receive industrial hemp for processing into commodities or products.

(5) 'Industrial hemp' means all parts and varieties of the plant *cannabis sativa*, whether growing or not, that contain a tetrahydrocannabinol (THC) concentration, the average of which shall not exceed one percent on a dry weight basis, and that are cultivated or possessed by a grower or handler in compliance with the provisions of sections 1 to 4 of this Act. 'Industrial hemp' is separate and distinct from 'marihuana' or 'marijuana.' 'Industrial hemp' does not include products made from industrial hemp, such as building materials, cloth, cordage, fiber, food, fuel, industrial chemicals, paint, paper, particle board, floor coverings, plastics, industrial hemp seed, seed meal, seed oil for consumption, certified seed or yarn. + }

SECTION 2. Production, possession and commerce in industrial hemp is authorized in this state. Industrial hemp shall be classified as an agricultural product and shall be subject to regulation by the State Department of Agriculture.

SECTION 3. { + (1) All growers or handlers of industrial hemp

shall obtain a license as prescribed by the rules of the State Department of Agriculture.

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

(3) The department may inspect the industrial hemp crop of any person granted a grower's license pursuant to this section during the crop's growth phase. For inspection purposes, the department shall take a representative composite sample of the total crop for field analysis. The dispute settlement system of the department shall be used when necessary. The average THC content in the crop shall not exceed one percent on a dry weight basis.

(4) The department shall identify sources where a grower may obtain industrial hemp seeds. Subject to department guidelines, licensed growers may retain seeds from each crop to ensure a sufficient supply of seeds for the following year.

(5) The department may charge reasonable fees in amounts determined by the department as necessary for purposes of carrying out the duties of the department under this section. + }

SECTION 4. { + In addition to any other liability or penalty provided by law, the State Department of Agriculture may revoke or refuse to issue an industrial hemp license or may impose a civil penalty on a hemp grower or handler for any of the following:

(1) Violation of the licensing requirement created under section 3 of this Act.

(2) Violation of any of the terms or conditions of an industrial hemp license issued under section 3 of this Act.

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

(4) Violation of any final order of the department that pertains specifically to the operations or activities of the hemp grower or handler incurring the penalty. + }

SECTION 5. { + (1) A civil penalty imposed under section 4 of this Act shall not exceed \$_____.

(2) The revocation of or refusal to issue a license or the issuance of a civil penalty under section 4 of this Act shall be subject to ORS 183.310 to 183.550. + }

SECTION 6. ORS 475.005 is amended to read:

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

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

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

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

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

(3) 'Administration' means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.

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

(5) 'Board' means the State Board of Pharmacy.

(6) 'Controlled substance' means a drug or its immediate precursor classified in Schedules I through V under the Federal

Controlled Substances Act, 21 U.S.C.ss811 to 812, as modified under ORS 475.035. The use of the term 'precursor' in this subsection does not control and is not controlled by the use of the term 'precursor' in ORS 475.940, 475.950 and 475.955. { + ' Controlled substance' does not include industrial hemp, as defined in section 1 of this 1997 Act, or products made from industrial hemp. + }

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

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

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

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

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

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

(11) 'Dispenser' means a practitioner who dispenses.

(12) 'Distributor' means a person who delivers.

(13) 'Drug' means:

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

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

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

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

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

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

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

(15) 'Marijuana' means all parts of the plant Cannabis family

Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin { + except industrial hemp, as defined in section 1 of this 1997 Act, or products made from industrial hemp + }. { - It - } { + 'Marijuana' + } does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. { + ' Marijuana' also does not include industrial hemp seeds. + }

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

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

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

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

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

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

SECTION 7. ORS 561.144 is amended to read:

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

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

(3) The license and service fees subject to this section are those described in ORS 561.400, 570.710, 571.057, 571.063, 571.145, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050, 586.270, 586.580, 586.650, 596.030, 596.311, 599.235, 599.269,

599.406, 599.610, 600.030, 601.040, 602.090, 603.025, 603.075,
616.706, 618.115, 618.136, 619.031, 621.072, 621.166, 621.266,
621.297, 621.335, 621.730, 622.080, 625.180, 628.240, 632.211,
632.336, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940,
632.945, 633.015, 633.029, 633.361, 633.460, 633.680, 633.700,
633.720, 634.016, 634.116, 634.122, 634.126, 634.132, 634.136,
634.212 and 635.030 { + and section 3 of this 1997 Act + }.
