

## CHAPTER 116

AN ACT

HB 4089

Relating to industrial hemp; creating new provisions; amending ORS 475B.301, 475B.311, 475B.337, 475B.341, 475B.349, 475B.831, 571.300, 571.305, 571.330, 571.333, 571.339 and 571.348; repealing ORS 571.324; and declaring an emergency.

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

**OREGON INDUSTRIAL HEMP  
AGRICULTURAL PILOT PROGRAM**

**SECTION 1.** Sections 2 and 3 of this 2018 Act are added to and made a part of ORS 571.300 to 571.348.

**SECTION 2.** ORS 571.300 to 571.348 shall be known and may be cited as the Oregon Industrial Hemp Agricultural Pilot Program and Research Act.

**SECTION 3.** The State Department of Agriculture shall administer an Oregon Industrial Hemp Agricultural Pilot Program for the purpose of studying the growth, cultivation and marketing of industrial hemp in this state. In carrying out the program, the department:

- (1) Shall administer ORS 571.300 to 571.348;
- (2) Shall adopt by rule any record keeping and reporting requirements necessary to administer the program;
- (3) May purchase, possess, seize or dispose of industrial hemp products or commodities as the department deems necessary to enforce and ensure compliance with ORS 571.300 to 571.348 or department rules relating to ORS 571.300 to 571.348; and
- (4) May exercise any other power or perform any other function necessary to administer the program.

**SECTION 4.** Section 3 of this 2018 Act is intended to name the State Department of Agriculture hemp research program operating immediately prior to the effective date of this 2018 Act the Oregon Industrial Hemp Agricultural Pilot Program. The Oregon Industrial Hemp Agricultural Pilot Program is a continuation of the hemp research program operating immediately prior to the effective date of this 2018 Act and not a new program. Any references in any statutory or uncodified law or resolution of the Legislative Assembly, or in a rule, document, record or proceeding authorized by the Legislative Assembly, to the hemp research program operated by the department immediately prior to the effective date of this 2018 Act are considered to be references to the Ore-

gon Industrial Hemp Agricultural Pilot Program.

**SECTION 5.** Section 4 of this 2018 Act is repealed January 2, 2019.

**AGRICULTURAL HEMP SEED  
CERTIFICATE PROGRAM**

**SECTION 6.** Section 7 of this 2018 Act is added to and made a part of ORS 571.300 to 571.348.

**SECTION 7.** (1) For purposes of ORS 633.511 to 633.750, agricultural hemp seed is an agricultural seed or a flower seed, as those terms are defined in ORS 633.511.

(2) The Director of Agriculture, or the director's agent, and the Dean of the College of Agricultural Sciences of Oregon State University, or the dean's agent, shall establish a program for the labeling and certification of agricultural hemp seed. For purposes of the program:

- (a) The director and the dean shall perform their respective duties under ORS 633.511 to 633.750 with respect to agricultural hemp seed in the same manner that the director and dean perform their respective duties under ORS 633.511 to 633.750 with respect to other agricultural seed or flower seed, including but not limited to those duties related to labeling, testing and certifying seeds; and
- (b) The director and the dean shall exercise their respective functions and powers under ORS 633.511 to 633.750 with respect to agricultural hemp seed in the same manner that the director and dean exercise their respective functions and powers under ORS 633.511 to 633.750 with respect to other agricultural seed or flower seed, including but not limited to inspecting and sampling seeds and making rules and regulations under ORS 633.680.

(3) Notwithstanding subsections (1) and (2) of this section, if the director in consultation with the dean determines that a specific provision of ORS 633.511 to 633.750, or a specific rule or regulation made under ORS 633.511 to 633.750, that applies to other agricultural seed or flower seed is inadequate or not suitable for the regulation of agricultural hemp seed, the director may by rule exempt agricultural hemp seed from the provision, rule or regulation and make rules providing more adequate or suitable regulation of agricultural hemp seed.

(4)(a) The director and the dean shall collaborate with growers registered under ORS 571.305 in performing their respective duties and exercising their respective functions and powers under ORS 633.511 to 633.750 with respect to agricultural hemp seed.

(b) The director and the dean may collaborate with growers registered under ORS 571.305 and other stakeholders to develop a heritage agricultural hemp seed for this state.

(5) The director and the dean may collaborate with entities authorized to certify seeds under the laws of other states in performing their respective duties and exercising their respective functions and powers under ORS 633.511 to 633.750 with respect to agricultural hemp seed.

(6) A grower registered under ORS 571.305 is not required, for purposes related to growing industrial hemp, to use an agricultural hemp seed variety certified under the program described in this section.

(7) The State Department of Agriculture may establish by rule waivers to, or exemptions from, tests that would otherwise be conducted to determine a crop's average tetrahydrocannabinol concentration for crops planted with agricultural hemp seed varieties certified pursuant to the program described in this section.

#### INDUSTRIAL HEMP TESTING

**SECTION 8.** Sections 9 and 10 of this 2018 Act are added to and made a part of ORS 571.300 to 571.348.

**SECTION 9.** The State Department of Agriculture may by rule or order establish a process providing for the remediation of a violation of ORS 571.330 or 571.333 that is committed by a grower or handler registered under ORS 571.305 and is not committed intentionally.

**SECTION 10.** The State Department of Agriculture may charge growers and handlers registered under ORS 571.305 fees reasonably calculated by the department to pay the cost of sampling or testing industrial hemp or industrial hemp commodities or products under ORS 571.330 and 571.333. Moneys from fees charged under this section shall be deposited in the Industrial Hemp Fund established under section 30 of this 2018 Act.

**SECTION 11.** ORS 571.330 is amended to read: 571.330. (1) For purposes of this section, "consumption" means to ingest, inhale or topically apply to the skin or hair.

[(2)] (2)(a) A laboratory licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority pursuant to ORS 475B.565 may test industrial hemp and industrial hemp commodities and products produced or

processed by a grower, handler or agricultural hemp seed producer registered under ORS 571.305.

(b) An accredited independent testing laboratory that has been approved by the authority or the State Department of Agriculture may test industrial hemp and industrial hemp commodities and products produced or processed by a grower, handler or agricultural hemp seed producer registered under ORS 571.305.

(3) A [handler registered under ORS 571.305] grower or handler may not sell or transfer an industrial hemp commodity or product that is intended for human consumption unless the commodity or product is tested by a laboratory described in subsection (2) of this section to ensure that the commodity or product meets the requirements adopted by the Oregon Health Authority under ORS 475B.555 (1)(a) and (b) and (2) for testing marijuana items.

(4) For purposes of this section, the [State Department of Agriculture] department shall adopt rules:

(a) Establishing protocols for the testing of industrial hemp commodities and products; and

(b) Establishing procedures for determining batch sizes and for sampling industrial hemp commodities and products.

(5) This section does not apply to:

(a) Agricultural hemp seed;

(b) Seeds of the plant genus *Cannabis* within the plant family *Cannabaceae* that are incapable of germination;

(c) Products derived from seeds described in paragraph (b) of this subsection; or

(d) Other parts of industrial hemp that the department identifies by rule as exempt.

**SECTION 12.** ORS 571.333 is amended to read:

571.333. (1) The State Department of Agriculture may enter into an agreement with the Oregon Health Authority for the purpose of developing standards for investigating and testing an industrial hemp crop to [ensure that the crop contains an] determine the average tetrahydrocannabinol concentration [that does not exceed 0.3 percent on a dry weight basis] of the crop.

(2) In accordance with standards developed under subsection (1) of this section, a laboratory [licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the authority pursuant to ORS 475B.565] described in ORS 571.330 may test an industrial hemp crop for the purpose of determining the average tetrahydrocannabinol concentration of the crop. The laboratory must provide the test results to the department in a form and manner prescribed by the department.

[(3) A laboratory described in subsection (2) of this section must provide the test results to the department in a form and manner prescribed by the department.]

## INDUSTRIAL HEMP COMMODITIES OR PRODUCTS

**SECTION 13.** Sections 14, 15 and 15a of this 2018 Act are added to and made a part of ORS 571.300 to 571.348.

**SECTION 14.** (1) The Oregon Liquor Control Commission may purchase, possess, seize or dispose of industrial hemp products or commodities located on a premises licensed under ORS 475B.070, 475B.090, 475B.100, 475B.105 or 475B.560 or other area under the control of the premises licensee as the commission deems necessary to enforce and ensure compliance with:

(a) ORS 475B.010 to 475B.545, 475B.550 to 475B.590 or 475B.600 to 475B.655 or rules adopted by the commission relating to ORS 475B.010 to 475B.545, 475B.550 to 475B.590 or 475B.600 to 475B.655; or

(b) Any provision in ORS 571.300 to 571.348 or in rules adopted by the commission or State Department of Agriculture under ORS 571.300 to 571.348 that makes a requirement, restriction or other provision of ORS 475B.010 to 475B.545, 475B.550 to 475B.590 or 475B.600 to 475B.655 applicable to industrial hemp.

(2) If the commission purchases, possesses, seizes or disposes of industrial hemp products or commodities under this section to enforce or ensure compliance with a provision of ORS 571.300 to 571.348 or rule adopted by the department under ORS 571.300 to 571.348 that makes a requirement, restriction or other provision of ORS 475B.010 to 475B.545, 475B.550 to 475B.590 or 475B.600 to 475B.655 applicable to industrial hemp, the commission shall notify the department of the commission action as soon as practicable.

**SECTION 15.** (1) As used in this section:

(a) "Consumption" has the meaning given that term in ORS 571.330.

(b) "Processor" means a person licensed under ORS 475B.090.

(c) "Retailer" means a person licensed under ORS 475B.105.

(d) "Wholesaler" means a person licensed under ORS 475B.100.

(2) Except as provided in section 15a of this 2018 Act, a processor, retailer or wholesaler may purchase, receive, transfer, sell or transport industrial hemp, or an industrial hemp commodity or product that contains cannabinoids and is intended for human consumption, only if:

(a) The processor, retailer or wholesaler received the hemp, commodity or product from a grower or handler registered under ORS 571.305 or a processor;

(b) The grower, handler or processor under paragraph (a) of this subsection is registered by

the Oregon Liquor Control Commission as provided under ORS 571.336; and

(c) The hemp, commodity or product meets the requirements for marijuana items under ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted by the commission.

(3) A grower, handler or processor registered as described under ORS 571.336 (2)(a) shall enter hemp, commodity or product that contains cannabinoids, is intended for human consumption and is intended for transfer, sale or transport to a processor, retailer or wholesaler licensed under ORS 475B.010 to 475B.545 into the tracking system described in ORS 475B.177 before the hemp, commodity or product is transferred to a laboratory described in ORS 571.330 (2) for testing of a type described under ORS 475B.555. The commission shall continue to track the hemp, commodity or product entered into the system under this subsection when the hemp, commodity or product is transferred, sold or transported to a premises licensed under ORS 475B.010 to 475B.545, or to other areas under the control of the premises licensee.

(4) The State Department of Agriculture shall adopt rules regarding the activities of growers and handlers under this section.

(5) The commission shall adopt rules regarding the activities of processors, retailers, wholesalers and laboratories under this section.

**SECTION 15a.** (1) As used in this section:

(a) "Consumer" has the meaning given that term in ORS 475B.015.

(b) "Retailer" means a person licensed under ORS 475B.105.

(2) Industrial hemp products that contain more than 0.3 percent tetrahydrocannabinol may not be sold to a consumer by a person other than a retailer.

(3) The Oregon Liquor Control Commission shall adopt rules establishing measures the commission deems necessary for ensuring compliance with this section.

**SECTION 16.** ORS 571.339 is amended to read:

571.339. A person may not make a retail sale of industrial hemp commodities or products in this state unless the industrial hemp commodities or products and the industrial hemp used to process the industrial hemp commodities or products meet the [same or substantially the same] requirements for processing industrial hemp commodities or products or growing industrial hemp set forth in ORS 571.300 to 571.348 and rules adopted under ORS 571.300 to 571.348. This section does not apply to the retail sale of industrial hemp commodities or products by a marijuana retailer, as defined in ORS 475B.015, that holds a license issued under ORS 475B.105.

**NOTE:** Sections 17 and 18 were deleted by amendment. Subsequent sections were not renumbered.

## PERSONAL POSSESSION

**SECTION 19.** Section 20 of this 2018 Act is added to and made a part of ORS 571.300 to 571.348.

**SECTION 20.** (1) ORS 571.300 to 571.348 do not apply to the production or storage of homegrown plants in the genus *Cannabis* within the plant family Cannabaceae at a household by one or more persons 21 years of age or older, if the total amount of homegrown plants at the household does not exceed four plants at any time.

(2) As used in this section, “homegrown” and “household” have the meanings given those terms in ORS 475B.015.

**SECTION 21.** ORS 475B.301 is amended to read:

475B.301. ORS 475B.025, 475B.030, 475B.033, 475B.035, 475B.040, 475B.045, 475B.050, 475B.055, 475B.060, 475B.063, 475B.065, 475B.068, 475B.070, 475B.085, 475B.090, 475B.100, 475B.105, 475B.115, 475B.119, 475B.136, 475B.139, 475B.144, 475B.146, 475B.154, 475B.158, 475B.163, 475B.173, 475B.177, 475B.206, 475B.211, 475B.216, 475B.224, 475B.232, 475B.236, 475B.241, 475B.246, 475B.256, 475B.261, 475B.266, 475B.276, 475B.281, 475B.286, 475B.296, 475B.461, 475B.474, 475B.479, 475B.486, 475B.491, 475B.501, 475B.506, 475B.514, 475B.518, 475B.521, 475B.523, 475B.526 and 475B.529 do not apply:

(1) To the production or storage of homegrown [*marijuana*] plants in the genus *Cannabis* within the plant family Cannabaceae that are otherwise subject to ORS 475B.010 to 475B.545 at a household by one or more persons 21 years of age and older, if the total amount of homegrown [*marijuana*] plants at the household does not exceed four [*marijuana*] plants at any time.

(2) To the possession or storage of usable marijuana items at a household by one or more persons 21 years of age or older, if the total amount of usable marijuana at the household does not exceed eight ounces of usable marijuana at any time.

(3) To the making, processing, possession or storage of cannabinoid products at a household by one or more persons 21 years of age and older, if the total amount of cannabinoid products at the household does not exceed 16 ounces in solid form at any time.

(4) To the making, processing, possession or storage of cannabinoid products at a household by one or more persons 21 years of age and older, if the total amount of cannabinoid products at the household does not exceed 72 ounces in liquid form at any time.

(5) To the making, processing, possession or storage of cannabinoid concentrates at a household by one or more persons 21 years of age or older, if the total amount of cannabinoid concentrates at the household does not exceed 16 ounces at any time.

(6) To the possession of cannabinoid extracts at a household by one or more persons 21 years of age or older, if the cannabinoid extracts were purchased from a marijuana retailer that holds a license under ORS 475B.105, or transferred by a medical marijuana dispensary registered by the Oregon Health Authority under ORS 475B.858, and the total amount of cannabinoid extracts at the household does not exceed one ounce at any time.

(7) To the delivery of not more than one ounce of usable marijuana at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(8) To the delivery of not more than 16 ounces of cannabinoid products in solid form at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(9) To the delivery of not more than 72 ounces of cannabinoid products in liquid form at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(10) To the delivery of not more than 16 ounces of cannabinoid concentrates at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

**SECTION 22.** ORS 475B.311 is amended to read:

475B.311. (1) A person other than a marijuana processor that holds a license issued under ORS 475B.090 may not process cannabinoid extracts into a cannabinoid product.

(2) A person may not produce, process or store homemade industrial hemp extracts.

(2) (3) Violation of this section is a Class A misdemeanor.

**SECTION 23.** ORS 475B.337 is amended to read:

475B.337. (1) Except for licensees and licensee representatives acting in accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS 475B.010 to 475B.545, it is unlawful for any person 21 years of age or older to possess, knowingly or intentionally:

(a) An amount of [*marijuana*] plants in the genus *Cannabis* within the plant family Cannabaceae in excess of the amount allowed under ORS 475B.301 (1).

(b) More than one ounce of usable marijuana in a public place.

(c) More than eight ounces of usable marijuana.

(d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.

(e) More than 72 ounces of cannabinoid products in liquid form.

(f) More than one ounce of cannabinoid extracts.

(g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475B.105.

(2) Except as provided in subsection (3) of this section, unlawful possession of a marijuana item is a Class A misdemeanor.

(3) Unlawful possession of a marijuana item is:

(a) A Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection (1)(a) to (f) of this section.

(b) A Class B misdemeanor, if the amount possessed is more than two times, but not more than four times, the applicable maximum amount specified in subsection (1)(a) to (f) of this section.

(c) A Class C felony, if the amount possessed is:

(A) More than 16 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this subsection;

(B) More than eight pounds of usable marijuana in a public place; or

(C) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475B.105.

**SECTION 24.** ORS 475B.341 is amended to read:

475B.341. (1) Except for licensees and licensee representatives acting in accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS 475B.010 to 475B.545, it is unlawful for any person under 21 years of age to possess, knowingly or intentionally:

(a) An amount of [*marijuana*] plants **in the genus Cannabis within the plant family Cannabaceae** in excess of the amount allowed under ORS 475B.301 (1).

(b) More than one ounce of usable marijuana in a public place.

(c) More than eight ounces of usable marijuana.

(d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.

(e) More than 72 ounces of cannabinoid products in liquid form.

(f) More than one ounce of cannabinoid extracts.

(g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license under ORS 475B.105.

(2) Except as provided in subsection (3) of this section, unlawful possession of a marijuana item by a person under 21 years of age is a Class A misdemeanor.

(3) Unlawful possession of a marijuana item by a person under 21 years of age is a Class C felony, if the amount possessed is:

(a) More than 16 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this subsection;

(b) More than eight pounds of usable marijuana in a public place; or

(c) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475B.105.

**SECTION 25.** ORS 475B.349 is amended to read:

475B.349. (1) Except for licensees and licensee representatives acting in accordance with ORS 475B.010 to 475B.545 and any rule adopted under ORS 475B.010 to 475B.545, and except for a person

acting within the scope of and in compliance with ORS 475B.301, it is unlawful for any person to manufacture a marijuana item.

(2) Except as provided in subsection (3) of this section, unlawful manufacture of a marijuana item is a Class A misdemeanor.

(3) Unlawful manufacture of a marijuana item is:

(a) A Class B misdemeanor, if a person 21 years of age or older unlawfully manufactures homegrown marijuana at a household and the total number of homegrown [*marijuana*] plants **in the genus Cannabis within the plant family Cannabaceae** at the household exceeds four [*marijuana*] plants but does not exceed eight [*marijuana*] plants.

(b) A Class C felony, if:

(A) A person unlawfully manufactures marijuana and the total number of [*marijuana*] plants **in the genus Cannabis within the plant family Cannabaceae** exceeds 12 [*marijuana*] plants; or

(B) A person unlawfully manufactures a cannabinoid product or a cannabinoid concentrate and the total amount of cannabinoid products or the total amount of cannabinoid concentrates exceeds twice the applicable maximum amount specified in ORS 475B.337 (1)(d), (e) or (f).

(c) A Class B felony, if a person unlawfully manufactures a cannabinoid extract.

**SECTION 26.** ORS 475B.831 is amended to read:

475B.831. (1)(a) A registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess:

(A) Six or fewer mature marijuana plants; and

(B) Twelve or fewer immature marijuana plants.

(b)(A) Unless an address is the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, the address where a registry identification cardholder or the primary caregiver of a registry identification cardholder produces marijuana may be used to produce not more than:

(i) Six or fewer mature marijuana plants per registry identification cardholder, up to 12 mature marijuana plants; and

(ii) Twelve or fewer immature marijuana plants per registry identification cardholder, up to 24 immature marijuana plants.

(B) Except as provided in subparagraph (C) of this paragraph, an address that is subject to this paragraph may not be used to produce [*marijuana*] plants **in the genus Cannabis within the plant family Cannabaceae** pursuant to ORS 475B.301.

(C) Subject to subparagraph (D) of this paragraph, an address that is subject to this paragraph may be used to produce [*marijuana*] plants **in the genus Cannabis within the plant family Cannabaceae** pursuant to ORS 475B.301 if a person other than a registry identification cardholder who is using the address to produce marijuana plants pursuant to ORS 475B.785 to 475B.949 resides at the address.

(D) An address that is subject to this paragraph may not be used to produce more than 12 total mature marijuana plants.

(2)(a) A person may be designated to produce marijuana under ORS 475B.810 by no more than four registry identification cardholders.

(b) A person who is designated to produce marijuana by a registry identification cardholder may produce no more than six mature marijuana plants and no more than 12 immature marijuana plants that are 24 inches or more in height for a registry identification cardholder who designates the person to produce marijuana.

(3) If the address of a person responsible for a marijuana grow site under ORS 475B.810 is located within city limits in an area zoned for residential use:

(a) Except as provided in paragraph (b) of this subsection, no more than 12 mature marijuana plants and no more than 24 immature marijuana plants that are 24 inches or more in height may be produced at the address; or

(b) Subject to subsection (5) of this section, if each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.810 before January 1, 2015:

(A) No more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 12 mature marijuana plants, not to exceed 24 mature marijuana plants, may be produced at the address; and

(B) No more than 48 immature marijuana plants that are 24 inches or more in height may be produced at the address.

(4) If the address of a person responsible for a marijuana grow site under ORS 475B.810 is located in an area other than an area described in subsection (3) of this section:

(a) Except as provided in paragraph (b) of this subsection, no more than 48 mature marijuana plants and no more than 96 immature marijuana plants that are 24 inches or more in height may be produced at the address; or

(b) Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475B.810 before January 1, 2015:

(A) No more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants, may be produced at the address; and

(B) No more than 192 immature marijuana plants that are 24 inches or more in height may be produced at the address.

(5) If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (3)(b) or (4)(b) of this section:

(a) No more than 12 mature marijuana plants and no more than 24 immature marijuana plants

that are 24 inches or more in height may be subsequently produced at any address described in subsection (3) of this section at which the person responsible for that marijuana grow site produces marijuana.

(b) No more than 48 mature marijuana plants and no more than 96 immature marijuana plants that are 24 or more inches in height may be subsequently produced at any address described in subsection (4) of this section at which the person responsible for that marijuana grow site produces marijuana.

(6) If a registry identification cardholder who designated a person to produce marijuana for the registry identification cardholder pursuant to ORS 475B.810 terminates the designation, the person responsible for the marijuana grow site whose designation has been terminated may not be designated to produce marijuana by another registry identification cardholder, except that the person may be designated by another registry identification cardholder if no more than 48 mature marijuana plants and no more than 96 immature marijuana plants that are 24 or more inches in height are produced at the address for the marijuana grow site at which the person produces marijuana.

(7) Subject to the limits described in subsections (2) to (6) of this section, if multiple persons responsible for a marijuana grow site under ORS 475B.810 are located at the same address, the persons designated to produce marijuana by registry identification cardholders who are located at that address may collectively produce marijuana plants for any number of registry identification cardholders who designate the persons to produce marijuana.

(8) If a law enforcement officer determines that there is a number of marijuana plants at an address in excess of the quantities specified in this section, or that an address is being used to produce a number of marijuana plants in excess of the quantities specified in subsection (1)(b) of this section, the law enforcement officer may confiscate only the excess number of marijuana plants.

## TETRAHYDROCANNABINOL CONCENTRATION

**SECTION 27.** ORS 571.300 is amended to read: 571.300. As used in ORS 571.300 to 571.348:

(1) "Agricultural hemp seed" means Cannabis seed:

(a) That is sold to or intended to be sold to registered growers for planting; or

(b) That remains in an unprocessed or partially processed condition that is capable of germination.

(2) "Crop" means industrial hemp grown under a single registration.

(3) "Grower" means a person, joint venture or cooperative that produces industrial hemp.

(4) "Handler" means a person, joint venture or cooperative that receives industrial hemp for proc-

essing into commodities, products or agricultural hemp seed.

(5) "Industrial hemp":

(a) **Except as provided in this paragraph,** means all nonseed parts and varieties of the Cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis. **The State Department of Agriculture, by rule, may adopt any higher average tetrahydrocannabinol concentration limit established in federal law.**

(b) Means any Cannabis seed:

(A) That is part of a crop;

(B) That is retained by a grower for future planting;

(C) That is agricultural hemp seed;

(D) That is for processing into or for use as agricultural hemp seed; or

(E) That has been processed in a manner or to an extent that the Cannabis seed is incapable of germination.

(c) Does not mean industrial hemp commodities or products.

(6) "Industrial hemp concentrate" means an industrial hemp product obtained by separating cannabinoids from industrial hemp by:

(a) A mechanical process;

(b) A chemical extraction process using a nonhydrocarbon-based solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

(c) A chemical extraction process using carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

(d) Any other process identified by the [State] department [of Agriculture] by rule.

(7) "Industrial hemp extract" means an industrial hemp product obtained by separating cannabinoids from industrial hemp by:

(a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;

(b) A chemical extraction process using carbon dioxide, if the process uses high heat or pressure; or

(c) Any other process identified by the department by rule.

**SECTION 28.** ORS 571.305 is amended to read:

571.305. (1) To grow or handle industrial hemp, a person must be registered with the State Department of Agriculture as a grower or handler.

(2)(a) Only a grower or handler registered under this section may produce agricultural hemp seed. For a grower or handler to produce agricultural hemp seed, the grower or handler must be registered with the department as an agricultural hemp seed producer.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A grower registered under this section that retains agricultural hemp seed [as described in ORS 571.324] **for the purpose of personally propagat-**

**ing industrial hemp in a subsequent year** is not required to register with the department as an agricultural hemp seed producer; and

(B) A grower or handler registered under this section that produces Cannabis seeds that are incapable of germination, or a handler registered under this section that processes Cannabis seeds that are incapable of germination into commodities or products, is not required to register with the department as an agricultural hemp seed producer.

(3) An applicant for registration under this section must submit to the department, in a form and manner prescribed by the department, the following information:

(a) The name and address of the applicant;

(b) The name and address of the industrial hemp operation of the applicant; and

(c) Any other information required by the department by rule.

(4) Registration under this section is valid for a one-year term, beginning on January 1. A grower, handler or agricultural hemp seed producer may renew a registration under this section in a form and manner prescribed by the department.

(5) A registration under this section is a personal privilege and is not transferable.

(6) A grower or handler registered under this section must keep records as required by the department by rule. Upon not less than three days' notice, the department may subject the records to inspection or audit during normal business hours. The department may make an inspection or audit for the purpose of ensuring compliance with:

(a) A provision of ORS 571.300 to 571.348;

(b) A rule adopted under a provision of ORS 571.300 to 571.348; or

(c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.348 or a rule adopted under a provision of ORS 571.300 to 571.348.

(7) In addition to any inspection conducted pursuant to ORS 561.275, the department may inspect any crop during the crop's growth phase and take a representative composite sample for field analysis. If a crop contains an average tetrahydrocannabinol concentration exceeding 0.3 percent on a dry weight basis **or a tetrahydrocannabinol concentration exceeding the concentration allowed under federal law, whichever is greater,** the department may detain, seize or embargo the crop as provided under ORS 561.605 to 561.620, **subject to any process established under section 9 of this 2018 Act.**

(8) The department may charge growers, handlers and agricultural hemp seed producers application **fees, registration and renewal of registration fees, administrative change fees and fees for other services in amounts** reasonably calculated by the department to pay the cost of administering ORS 571.300 to 571.348. Moneys from fees charged under this subsection shall be deposited in the [Department of Agriculture Service Fund and are continuously appropriated to the department for purposes of carrying out the duties of the department under

ORS 571.300 to 571.348.] **Industrial Hemp Fund established under section 30 of this 2018 Act.**

(9) The department may adopt rules establishing public health and safety standards and industry best practices for growers and handlers registered under this section.

#### INDUSTRIAL HEMP FUND

**SECTION 29.** Section 30 of this 2018 Act is added to and made a part of ORS 571.300 to 571.348.

**SECTION 30.** There is established in the State Treasury, separate and distinct from the General Fund, the Industrial Hemp Fund. Interest earned by the fund shall be credited to the fund. The fund shall consist of all moneys credited to or deposited in the fund. Moneys in the fund are continuously appropriated to the State Department of Agriculture for the purposes of implementing, administering and enforcing ORS 571.300 to 571.348.

**SECTION 31.** ORS 571.348 is amended to read:

571.348. (1) Subject to the provisions of ORS chapter 183, the State Department of Agriculture may impose a civil penalty not to exceed \$2,500 on a [grower, handler or agricultural hemp seed producer] **person** for violating:

- (a) A provision of ORS 571.300 to 571.348;
- (b) A rule adopted under a provision of ORS 571.300 to 571.348; or
- (c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.348 or a rule adopted under a provision of ORS 571.300 to 571.348.

(2) The department may not discipline a [grower, handler or agricultural hemp seed producer] **person** under this section on the basis that possessing, delivering and manufacturing industrial hemp are prohibited by federal law.

(3) All moneys collected by the department under this section shall be deposited in the General Fund in the State Treasury to the credit of the [Department of Agriculture Account]. All moneys deposited in the account pursuant to this section are continuously

appropriated to the department for the purpose of administering ORS 571.300 to 571.348.] **Industrial Hemp Fund established under section 30 of this 2018 Act.**

#### REPEAL

**SECTION 32.** ORS 571.324 is repealed.

#### FISCAL PROVISIONS

**SECTION 33.** Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (2), chapter 578, Oregon Laws 2017, for the biennium ending June 30, 2019, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Liquor Control Commission, for marijuana regulation, is increased by \$284,856 for expenses related to the regulation of hemp.

#### CAPTIONS

**SECTION 34.** The unit captions used in this 2018 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2018 Act.

#### EMERGENCY CLAUSE

**SECTION 35.** This 2018 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect on its passage.

Approved by the Governor April 13, 2018  
 Filed in the office of Secretary of State April 13, 2018  
 Effective date April 13, 2018