

Summary of Solutions – Hemp Enforcement under HB 2671 and Section 44+ of HB 3013 (OFB and OIHFA)

	Current Statute, OAR, and Policy	Budget Needs	Proposed Additional Solutions
Planting Prior to License Issued	<p>-ODA tells them they're in violation, allows them apply for license (statute/rule (OAR 603-048-1000(4)(a)(A))</p> <p>-If it's hemp, they'd get a violation and civil penalty regardless of whether they come under the program (ORS 571.348). If it's actually marijuana, they can be prosecuted, and they shouldn't be in the program.</p> <p>-If they want to apply for a license, ODA could issue one, but with conditions.</p> <p>*Additional enforcement provisions will be coming into effect to meet USDA Final Rules regardless of state statutory action on January 1, 2022):</p> <p>- If you have a negligent violation of the state plan, you have to enter a corrective action plan. Corrective Action Plan (7 CFR 990.6).</p>	<p>Enforcement Resources</p> <p>-ODA currently has 4 staff in the program</p> <p>-GRB will add four staff: \$1,010,300 (1 manager, 2 inspectors, Administrative Specialist)</p> <p>-Proposing an additional 4 staff: \$807,534 for this bill (3 inspectors and 1 case manager)</p> <p>-This would triple ODA's current staff resources.</p> <p>(source: Other Funds (fee dollars))</p>	<p>- If someone plants or commit a violation of the program prior to applying for a license or while an application is pending, they shall be required to enter into corrective action plan with the Department and shall be prioritized for inspection and enforcement.</p> <p>-If they fail to enter into a corrective action plan with the Department, their license/registration shall not be issued.</p> <p>-This does not limit the Department's ability to require corrective action plans for other violations.</p> <p>*This is consistent with new USDA requirements that will go into effect Jan. 1, 2022.</p>
Ability to Deny Permit Application or Renewal	<p>-If you violate the state plan three times in a five-year period, you are ineligible to produce hemp for a period of five years from the date of the third violation. (2018 Farm Bill; 7 CFR 990.6)</p> <p>-If you have a controlled substances felony in the last ten years, you are ineligible for the program unless you were part of the pilot (prior to December 20, 2018). (2018 Farm Bill; 7 CFR 990.6)</p>		<p>-If someone violates a detention, the Oregon Department Agriculture may deny or revoke a license/registration.</p> <p>*We are providing for ODA to est. rules to prevent someone from reapplying for a license for a violation of the program or an order issued by ODA in HB 2281 -3 Section 14 (2)</p>
Harvest After Inspection	<p>-If ODA does an on-site inspection when plants are in flower or close to flower, and there is a reasonable belief that the operation is marijuana, they MAY issue a detention until the test results come back.</p> <p>-ODA has the authority to go pull their own samples at any point under current law.</p>		<p>-No changes proposed.</p> <p>*ODA is looking into in-field testing resources to be followed up with a confirmation test by ODA's Regulatory lab.</p>

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<p>Fails to Submit Preharvest Test/ Cause to Revoke or Not Reissue Registration</p>	<p>-Requirement is to complete a preharvest test 28 days before harvest, labs send test results to ODA. (OAR 603-048-0600) -Requirement to submit a crop loss report (OAR 603-048-0400(1)) -If someone has a license and doesn't submit a test, ODA contacts them. People have submitted late crop loss reports. ODA will be taking enforcement action moving forward. *After Jan 1, 2022, everyone will have to report license acres to USDA FSA</p>	<p>- GRB proposes 1 case manager that would help with enforcement here, proposing 1 additional beyond that.</p>	<p>-As a part of license/registration, ODA shall require reporting of a decision not to plant, as well as immediate reporting of any crop loss. -The department will establish by rule the timelines for reporting. -If someone submits an inaccurate report, fails to report within the specified timeframe or later takes actions inconsistent with their report, that is a violation. (this could be done in rule without a statutory directive)</p>
<p>Fails Preharvest Test without Remediation and Destruction/ Cause to Revoke or Not Reissue Registration</p>	<p>-Requirement is that if growers fail preharvest test, then they must retest or destroy. This has not been well enforced. *Farm Bill requires growers to report how it was destroyed if they didn't pass preharvest testing requirements. *Farm Bill will allow remediation (to include retesting to verify remediation worked) of samples that test above 0.3% Total THC.</p>	<p>-Priority around enforcement, including ensuring that registrant provides documentation of destruction and ODA verifies destruction.</p>	<p>-If preharvest test fails, registrant/licensee must provide documentation of destruction or remediation (once remediation is allowed) to ODA. ODA shall specify the documentation and timeframe by rule. Failure to comply within specified timelines may constitute a violation.</p>
<p>Civil Penalties</p>	<p>-Current penalties go up to \$2,500</p>		<p>\$10,000 fine if willful violation – define willful as above 10% THC (statute) 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 Hemp Fund established under ORS 571.278</p>
<p>MOU Needs</p>	<p>-Currently ODA has authority to enter into MOUs for law enforcement, including accompanying staff on inspections.</p>		<p>*No additional authority needed</p>

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	-MOU needs: In Southern Oregon, maybe need to run past law enforcement addresses before permits are issued?		
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