

## HB 3000 B STAFF MEASURE SUMMARY

### House Committee On Rules

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**Action Date:** 05/27/21

**Action:** Do pass with amendments to the A-Eng bill, and be referred to Ways and Means.  
(Printed B-Eng).

**Vote:** 7-0-0-0

**Yeas:** 7 - Bonham, Drazan, Fahey, Holvey, Salinas, Smith Warner, Zika

**Fiscal:** Fiscal impact issued

**Revenue:** Revenue impact issued

**Prepared By:** Caine Francis

**Meeting Dates:** 4/19, 4/20, 5/14, 5/27

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#### WHAT THE MEASURE DOES:

Defines “adult use cannabinoid” to include Delta-8 THC, Delta-9 THC, the optical isomers of Delta-8 THC or Delta-9 THC, and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect. Defines “adult use cannabis item” as a marijuana item, or an industrial hemp commodity or product that exceeds the concentration of adult use cannabinoids established by the Oregon Liquor Control Commission (OLCC) in consultation with the Oregon Health Authority (OHA) by rule, or the greater of 0.3 percent total Delta-9 THC or the concentration of Delta-9 THC allowed under federal law. Prohibits sale of adult use cannabis items to a person under 21 years of age. Defines “artificially derived cannabinoid” as a chemical substance created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis family Cannabaceae, while excluding a naturally occurring chemical substance that is separated from the plant Cannabis family Cannabaceae by a chemical or mechanical extraction process, and cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst, and any other chemical substance identified by the OLCC in consultation with the OHA and Oregon Department of Agriculture (ODA) by rule.

Directs OLCC in consultation with OHA and ODA to adopt rules establishing maximum concentration of total Delta-9 THC, adult use cannabinoids, or artificially derived cannabinoids permitted in a single serving of a product, concentrate, or extract, and the maximum number of servings permitted in a package. Directs OLCC in consultation with the ODA to adopt rules establishing maximum concentration of total Delta-9 THC, adult use cannabinoids, or artificially derived cannabinoids permitted in a single serving of an industrial hemp product, and the maximum number of servings permitted in a package. Authorizes the OLCC to regulate the processing, transportation, delivery, sale, and purchase of artificially derived cannabinoids.

Authorizes ODA licensed grower/handler to send or receive hemp from another licensed ODA grower/handler, or a marijuana testing laboratory licensed by OLCC, if the hemp or hemp used in the hemp commodity is from a crop inspected and found to not contain an average THC concentration exceeding the concentration established by ODA by rule. Authorizes ODA licensed grower/handler to send or receive hemp from an OLCC licensed marijuana processor, wholesaler, or retailer if the hemp or hemp commodity or product does not exceed THC concentration limits established by the OLCC by rule and the hemp originated from a crop previously tested by ODA and found not to exceed the THC concentration limits established by the ODA by rule. Removes criminal penalties for import or export of industrial hemp that exceeds a Delta-9 concentration of 0.3 percent but does not exceed 1 percent. Requires ODA to conduct criminal records check for an individual applying for industrial hemp grower license, prohibits the ODA from issuing a grower license to an individual convicted of a felony related to a controlled substance within the past 10 years. Includes in criminal records checks individuals associated with the applicant through limited partnerships, limited liability companies, and corporations.

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Directs ODA to adopt rules requiring a grower/handler report any plans not to plant an industrial hemp crop or any crop losses. Requires licensed grower to provide documentation of crop destruction if ordered to do so by ODA for THC levels exceeding limits. Allows person to apply for grower license if the ODA determines previous violations are resolved. Directs ODA to prioritize inspections of crops planted by a person prior to issuance of a grower license and requires the person to enter a corrective action plan with the ODA. Authorizes ODA to impose a civil penalty not exceeding \$10,000 on a licensed grower whose crop contains a THC concentration of at least 10 percent on a dry weight basis.

Directs ODA to administer the Oregon Hemp State Program and adopt rules in accordance with the Agriculture Improvement Act of 2018 and subsequent federal law. Clarifies that rules adopted must conform to, and not be more restrictive than, rules related to hemp established by the United States Department of Agriculture.

Clarifies definition of "industrial hemp" to mean the plant species *Cannabis sativa* that has a THC concentration that complies with the concentration specified by the ODA by rule. Authorizes ODA to establish by rule requirements for the tracking and transfer of industrial hemp products and commodities intended for human consumption, including the use of systems developed and maintained by the OLCC. Allows a laboratory licensed by the OLCC to test industrial hemp and industrial hemp products and commodities regardless of whether the hemp, products, or commodities originated from a licensed grower or processor.

Allows a processor to transfer, sell, or transport industrial hemp products to a person who is not a processor, retailer, or wholesaler if the product meets testing requirements for marijuana items established by the OLCC, is entered into a tracking system administered by the OLCC, and has been held by the processor for a period of time required by the OLCC prior to the transfer, sale, or transport of the product. Requires industrial hemp products or commodities intended for human consumption be processed in a licensed facility and tested for concentration of Delta-8 THC if the product or commodity is sold to a person under 21 years of age, or if any representation is made to the consumer about the concentration of Delta-8 THC in the product. Prohibits the sale of industrial hemp products or commodities exceeding 0.3 percent total Delta-9 THC or the concentration allowed under federal law, whichever is greater, and products or commodities exceeding the concentration of adult use cannabinoids established by the OLCC, OHA, and ODA by rule.

Establishes Task Force on Cannabis-Derived Intoxicants to consider regulation of intoxicating cannabis-derived products, consolidation of administrative functions, methods to prevent sales to minors, testing and enforcement requirements, changes to state policies and regulations, and input from marijuana and industrial hemp industries. Requires task force to report to the Legislative Assembly no later than December 31, 2021 and December 31, 2022.

Directs Department of Revenue to distribute \$750,000 from the Oregon Marijuana Account to the Illegal Marijuana Market Enforcement Grant Program Fund. Directs OLCC and ODA to create a map of licensed industrial hemp operations and make the map available to law enforcement. Authorizes law enforcement to eradicate marijuana or industrial hemp that is unlawfully produced. Directs OLCC, in consultation with ODA, to develop by rule methodology to distinguish whether a cannabis plant is marijuana or industrial hemp, including testing criteria and cannabinoid concentrations above which immature or mature cannabis plants are presumptively considered to be marijuana. Authorizes ODA to order a grower/handler to destroy any cannabis plants located at an industrial hemp operation if the cannabis plants are presumptively considered to be marijuana. Authorizes OLCC and ODA to enter into agreement allowing OLCC representatives to carry out inspections of industrial hemp crops. Authorizes Governor to order the Oregon National Guard to assist ODA in carrying out inspections of industrial hemp crops and other enforcement duties.

Changes operative date in House Bill 2519 Enrolled from January 1, 2020 to January 1, 2022.

Declares emergency, effective on passage.

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### ISSUES DISCUSSED:

- Sale of Delta-8 THC cannabinoid products to minors
- Regulatory capacities of state agencies and local law enforcement
- Testing and tracking of industrial hemp products

### EFFECT OF AMENDMENT:

Replaces the measure.

### BACKGROUND:

Delta-9 THC is the primary intoxicating component in cannabis and is subject to regulation by the Oregon Health Authority (OHA) and the Oregon Liquor Control Commission (OLCC) including potency and concentration limits, serving sizes, testing and labeling requirements, and purchasing limits. Delta-8 THC is an intoxicating cannabinoid which is chemically similar to the more common Delta-9 THC. Delta-8 THC can be sold to minors in the state and purchased online with no requirement for age verification of the consumer, and it can be created from hemp-derived CBD by chemical processing which produces chemical byproducts with unknown health effects.

Under current law, hemp is subject to regulation by the Oregon Department of Agriculture (ODA). ORS 571.260 to 571.348 establish regulations for industrial hemp, including requirements by which an industrial hemp 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. ORS 571.341 prohibits the sale of industrial hemp products containing more than 0.3 percent tetrahydrocannabinol to a consumer other than a retailer.

House Bill 3000 B defines "adult use cannabinoid" to include Delta-8 THC, Delta-9 THC, the optical isomers of Delta-8 THC or Delta-9 THC, and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect. The measure defines "adult use cannabis item" as a marijuana item, or an industrial hemp commodity or product that exceeds the concentration of adult use cannabinoids established by the OLCC in consultation with the OHA by rule, or the greater of 0.3 percent total Delta-9 THC or the concentration of Delta-9 THC allowed under federal law. Prohibits sale of adult use cannabis items to a person under 21 years of age. "Artificially derived cannabinoid" is defined as a chemical substance created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis family Cannabaceae, while excluding a naturally occurring chemical substance that is separated from the plant Cannabis family Cannabaceae by a chemical or mechanical extraction process, and cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst, and any other chemical substance identified by the OLCC in consultation with the OHA and ODA by rule.

The measure directs the OLCC in consultation with OHA and ODA to adopt rules establishing the maximum concentration of total Delta-9 THC, adult use cannabinoids, or artificially derived cannabinoids permitted in a single serving of a product, concentrate, or extract, and the maximum number of servings permitted in a package. It directs the OLCC in consultation with the ODA to adopt rules establishing the maximum concentration of total Delta-9 THC, adult use cannabinoids, or artificially derived cannabinoids permitted in a single serving of an industrial hemp product, and the maximum number of servings permitted in a package, and authorizes the OLCC to regulate the processing, transportation, delivery, sale, and purchase of artificially derived cannabinoids.

House Bill 3000 B also authorizes a licensed ODA grower/handler to send or receive hemp from another licensed ODA grower/handler, or a marijuana testing laboratory licensed by the OLCC, if the hemp or hemp used in the hemp commodity is from a crop previously inspected and found to not contain an average THC concentration exceeding the concentration established by ODA by rule. The measure authorizes a licensed ODA grower/handler to send or receive hemp from a licensed OLCC marijuana processor, wholesaler, or retailer if the hemp or hemp commodity or product does not exceed THC concentration limits established by the OLCC by rule and the hemp

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originated from a crop previously tested by ODA and found not to exceed the THC concentration limits established by the ODA by rule.

The measure removes criminal penalties for the import or export of industrial hemp that exceeds a Delta-9 THC concentration of 0.3 percent but does not exceed 1 percent, and requires the ODA to conduct a criminal records check for an individual applying for an industrial hemp grower license, while prohibiting the ODA from issuing a grower license to an individual convicted of a felony related to a controlled substance within the past 10 years. Included in these criminal records checks are individuals associated with the applicant through limited partnerships, limited liability companies, and corporations. The measure also directs the ODA to adopt rules requiring a grower/handler to report any plans not to plant an industrial hemp crop or any crop losses, and requires a licensed grower to provide documentation of crop destruction if ordered to do so by ODA for THC levels exceeding limits. A person is allowed to apply for a grower license if the ODA determines previous violations are resolved. The measure directs the ODA to prioritize inspections of crops planted by a person prior to issuance of a grower license and requires the person to enter a corrective action plan with the ODA. It also authorizes the ODA to impose a civil penalty not exceeding \$10,000 on a licensed grower whose crop contains a THC concentration of at least 10 percent on a dry weight basis.

House Bill 3000 B directs the ODA to administer the Oregon Hemp State Program and adopt rules in accordance with the Agriculture Improvement Act of 2018 and subsequent federal law, while clarifying that rules adopted by the ODA must conform to, and not be more restrictive than, rules related to hemp established by the United States Department of Agriculture. The measure also clarifies the definition of "industrial hemp" to mean the plant species *Cannabis sativa* that has a THC concentration that complies with the concentration specified by the ODA by rule, and authorizes the ODA to establish by rule requirements for the tracking and transfer of industrial hemp products and commodities intended for human consumption, which may include the use of systems developed and maintained by the OLCC. It also allows a laboratory licensed by the OLCC to test industrial hemp and industrial hemp products and commodities regardless of whether the hemp, products, or commodities originated from a licensed grower or processor.

The measure allows a processor to transfer, sell, or transport industrial hemp products to a person who is not a processor, retailer, or wholesaler if the product meets testing requirements for marijuana items established by the OLCC, is entered into a tracking system administered by the OLCC, and has been held by the processor for a period of time required by the OLCC prior to the transfer, sale, or transport of the product. The measure also requires industrial hemp products or commodities intended for human consumption to be processed in a licensed facility and tested for concentration of Delta-8 THC if the product or commodity is sold to a person under 21 years of age, or if any representation is made to the consumer about the concentration of Delta-8 THC in the product. It prohibits the sale of industrial hemp products or commodities exceeding 0.3 percent total Delta-9 THC or the concentration allowed under federal law, whichever is greater, and products or commodities exceeding the concentration of adult use cannabinoids established by the OLCC, OHA, and ODA by rule.

The measure establishes the Task Force on Cannabis-Derived Intoxicants to consider the regulation of intoxicating cannabis-derived products, consolidation of administrative functions, methods to prevent sales to minors, testing and enforcement requirements, changes to state policies and regulations, and input from marijuana and industrial hemp industries, and to report to the Legislative Assembly no later than December 31, 2021 and December 31, 2022. The measure directs the Department of Revenue to distribute \$750,000 from the Oregon Marijuana Account to the Illegal Marijuana Market Enforcement Grant Program Fund, and directs the OLCC and ODA to create a map of licensed industrial hemp operations and make the map available to law enforcement.

The measure directs the OLCC in consultation with ODA to develop by rule methodology to distinguish whether a cannabis plant is marijuana or industrial hemp, including testing criteria and cannabinoid concentrations above which immature or mature cannabis plants are presumptively considered to be marijuana. It also authorizes the

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ODA to order a grower/handler to destroy any cannabis plants located at an industrial hemp operation if the cannabis plants are presumptively considered to be marijuana. The measure authorizes the OLCC and ODA to enter into agreement allowing OLCC representatives to carry out inspections of industrial hemp crops, and authorizes the Governor to order the Oregon National Guard to assist ODA in carrying out inspections of industrial hemp crops and other enforcement duties.

Finally, House Bill 3000 B changes the operative date in House Bill 2519 Enrolled from January 1, 2020 to January 1, 2022. HB 2519 allows licensed marijuana retailers to deliver marijuana items to consumers, pursuant to bona fide orders received by the retailer, within the same city or county in which the retailer is located, or in an adjacent city or county if allowed by that jurisdiction.