

House Bill 2284

Sponsored by Representative CLEM (at the request of House Agriculture and Land Use Committee) (Pre-session filed.)

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**.

Establishes Oregon Hemp Commission.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to hemp; and prescribing an effective date.

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

4 **SECTION 1. As used in sections 1 to 36 of this 2021 Act:**

5 (1) **"Fiscal year":**

6 (a) **Except as provided in paragraph (b) of this subsection, means the 12-month period**
7 **commencing on July 1 and ending on June 30.**

8 (b) **If adopted by rule by the Oregon Hemp Commission, means the 12-month period**
9 **commencing on January 1 and ending on December 31.**

10 (2) **"Hemp" means the plant species Cannabis sativa that:**

11 (a) **Has a tetrahydrocannabinol concentration that complies with the concentration**
12 **specified by the State Department of Agriculture by rule; and**

13 (b) **Has the meaning as defined by the department by rule.**

14 (3) **"Processor" has the meaning given the term "handler" in ORS 571.269.**

15 (4) **"Producer" has the meaning given the term "grower" in ORS 571.269.**

16 **SECTION 2. (1) It is hereby declared, as a matter of legislative determination, that**
17 **sections 1 to 36 of this 2021 Act are enacted in the exercise of the power of the state for the**
18 **purposes of protecting and furthering the public health and welfare. It is further declared**
19 **that the hemp industry of this state is affected with a public interest in that, among other**
20 **things:**

21 (a) **The production, processing, manufacture and distribution of hemp and hemp products**
22 **constitute a paramount industry of this state that not only provides substantial and required**
23 **revenues for the state and its political subdivisions, and employment and a means of**
24 **livelihood for many thousands of its population, but also provides essential foods, supple-**
25 **ments and other agricultural, commercial and industrial products that are vital to the public**
26 **health and welfare.**

27 (b) **The stabilization, maintenance and expansion of the hemp industry of Oregon, and**
28 **of the state, national and international markets for hemp products, are necessary to assure**
29 **the consuming public an adequate supply of foods and supplements that are indispensable in**
30 **a proper human diet, as well as other agricultural, commercial and industrial products to**
31 **protect, for the state and its political subdivisions, a necessary source of tax revenue, to**

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 provide and maintain an adequate standard of living for a great segment of the population
 2 of this state, to maintain proper wage scales for those engaged in the hemp industry and to
 3 maintain existing employment.

4 (c) The essential nature of hemp and hemp products is such as to require that the public
 5 be made aware of the essential nature of hemp and hemp products, and be protected against
 6 misrepresentation and deception, by the dissemination of accurate and scientific information
 7 about various hemp and hemp products, their various classifications, the food values and
 8 industrial and therapeutic uses of hemp and hemp products, the methods, care and pre-
 9 cautions necessary to their proper production, processing, manufacture and distribution, the
 10 necessary costs and expenses of the production, processing, manufacture and distribution
 11 of hemp and hemp products and the necessity and desirability on the part of the public of
 12 using and consuming hemp and hemp products of the highest standards of quality.

13 (2) The purposes of sections 1 to 36 of this 2021 Act are:

14 (a) To enable the hemp industry, with the aid of the state, to develop, maintain and ex-
 15 pand the state, national and international markets for hemp and hemp products produced,
 16 processed or manufactured in this state, and the use and consumption of hemp and hemp
 17 products in the state, national and international markets.

18 (b) In aid, but not in limitation, of the purposes described in paragraph (a) of this sub-
 19 section, to authorize and enable the Oregon Hemp Commission to formulate and effectuate,
 20 directly or in cooperation with other agencies and instrumentalities specified in sections 1
 21 to 36 of this 2021 Act, sales stimulation and consumer or other educational programs de-
 22 signed to increase the use and consumption of hemp and hemp products and to conduct re-
 23 search, education and information programs related to the hemp industry.

24 **SECTION 3.** (1) The State Department of Agriculture shall:

25 (a) Monitor the methods and practices used or proposed by the Oregon Hemp Commission
 26 in carrying out the goals and meeting the needs disclosed by the budget of the commission;

27 (b) Promote cooperation among the Oregon Hemp Commission, the commodity commis-
 28 sions, the Oregon Beef Council and the Oregon Wheat Commission, and assist in the inter-
 29 change of information and experiences among those entities;

30 (c) Carry out the assigned organizational procedures under sections 1 to 36 of this 2021
 31 Act, including the appointment and removal of members of the Oregon Hemp Commission;

32 (d) Review budgets submitted to the Director of Agriculture by the commission; and

33 (e) Adopt rules to carry out the provisions of sections 1 to 36 of this 2021 Act.

34 (2) The department shall review, and may approve or disapprove, plans and projects re-
 35 commended by the Oregon Hemp Commission for promotion, advertising and research and
 36 for the dissemination of consumer and hemp industry information. In reviewing a plan or
 37 project under this subsection, the department shall consider whether the plan or project is:

38 (a) Factual;

39 (b) Not disparaging to other agricultural commodities; and

40 (c) Consistent with the purposes of sections 1 to 36 of this 2021 Act.

41 **SECTION 4.** (1) In the same manner as that provided in ORS 576.206, the Director of
 42 Agriculture shall appoint seven temporary members to the Oregon Hemp Commission. In
 43 appointing the temporary members, the director shall consider any recommendations by
 44 commodity commissions, producers and producer associations. All temporary members of
 45 the commission must be citizens of the United States and residents of this state.

- 1 **(2)(a) A majority of the temporary members must be producers.**
- 2 **(b) A producer member appointed under subsection (1) of this section must have**
 3 **produced hemp under a license or registration issued by the State Department of Agriculture**
 4 **for at least three years prior to the member’s appointment.**
- 5 **(c) At least one member must be a processor. A processor member appointed under this**
 6 **subsection must have processed hemp under a license or registration issued by the depart-**
 7 **ment for at least three years prior to the member’s appointment.**
- 8 **(d) At least one member must be a member of the public who is not associated with the**
 9 **production or processing of hemp.**
- 10 **(3) The temporary members shall adopt rules for the commission in accordance with ORS**
 11 **chapter 183, including but not limited to rules:**
- 12 **(a) Establishing the number and geographic representation of the commissioners;**
 13 **(b) Providing for the removal of commissioners;**
 14 **(c) Setting a stipend and per diem for the commissioners; and**
 15 **(d) Relating to the assessment rate and procedures described in sections 1 to 36 of this**
 16 **2021 Act.**
- 17 **(4) The terms of temporary members expire on the date of the first meeting of the**
 18 **commissioners appointed under subsection (6) of this section, but not later than one year**
 19 **after the effective date of this 2021 Act.**
- 20 **(5) A qualified temporary member is eligible for appointment to a term on the commis-**
 21 **sion under subsection (6) of this section.**
- 22 **(6) Except as provided in subsection (11) of this section, the director shall appoint the**
 23 **commissioners to the commission in accordance with rules adopted under subsection (3) of**
 24 **this section. In appointing the commissioners, the director shall consider any recommen-**
 25 **dations by commodity commissions, producers and producer associations. The commissioners**
 26 **appointed under this subsection may be the same as the temporary members appointed under**
 27 **subsection (1) of this section. All commissioners must be citizens of the United States and**
 28 **residents of this state.**
- 29 **(7)(a) All commissioners other than processors and the members of the public must be**
 30 **producers.**
- 31 **(b) A majority of the commissioners must be producers that have produced hemp under**
 32 **a license or registration issued by the department for at least three years prior to appoint-**
 33 **ment to the commission.**
- 34 **(c) At least one commissioner must be a processor that has processed hemp under a li-**
 35 **cence or registration issued by the department for at least three years prior to the**
 36 **commissioner’s appointment.**
- 37 **(d) At least one commissioner must be a member of the public who is not associated with**
 38 **the production or processing of hemp.**
- 39 **(8) The term of a commissioner appointed under subsection (6) of this section is four**
 40 **years unless a shorter term is established by the commission by rule to provide for staggered**
 41 **terms. A commissioner is eligible for reappointment unless otherwise provided by the com-**
 42 **mission by rule. Before the expiration of a commissioner’s term, the director shall appoint**
 43 **a successor to assume office upon expiration of the term. If there is a vacancy on the com-**
 44 **mission for any reason, including a reason specified in section 6 or 7 of this 2021 Act, the**
 45 **director shall appoint a person to the unexpired term.**

1 (9) The commission shall select one member to serve as chairperson, another member
 2 to serve as vice chairperson and another member to serve as secretary-treasurer with the
 3 duties and powers that the commission deems appropriate to those offices.

4 (10) A temporary member of the commission and a commissioner are entitled to com-
 5 pensation and expenses in the manner and amounts provided in ORS 292.495. Claims for
 6 compensation earned and expenses incurred in performing the functions of the commission
 7 shall be paid out of funds available to the commission.

8 (11) The commission may amend the rules adopted by the temporary members under
 9 subsection (3) of this section. A rule amendment adopted under this subsection applies to
 10 commission appointments made after the effective date of the rule amendment.

11 **SECTION 5.** The Director of Agriculture and the Dean of the College of Agricultural
 12 Sciences of Oregon State University are ex officio nonvoting members of the Oregon Hemp
 13 Commission.

14 **SECTION 6.** The Director of Agriculture shall immediately declare the office of a member
 15 of the Oregon Hemp Commission who is a producer or processor vacant if the director finds
 16 that:

- 17 (1) The member is no longer actively engaged in hemp production or processing;
- 18 (2) The member has become a resident of another state; or
- 19 (3) The member is otherwise unable to perform the duties of the office.

20 **SECTION 7.** (1) The Director of Agriculture may remove a member of the Oregon Hemp
 21 Commission for inefficiency, neglect of duty or misconduct in office if the director provides:

- 22 (a) At least 10 days before the date of a public hearing on the issue of removal of the
 23 member, service on the member of:
 - 24 (A) A copy of the charges against the member; and
 - 25 (B) Notice of the time and place of the public hearing on the issue of removal; and
 - 26 (b) A public hearing on the issue of removal of the member at which the member must
 27 have the opportunity to be heard in person or by counsel and to present evidence to answer
 28 the charges and explain the facts alleged against the member.

29 (2) In the case of removal, the director shall file with the office of the Secretary of State
 30 a complete statement of all charges against the member, and the findings on the charges,
 31 along with a record of the entire removal proceedings.

32 **SECTION 8.** (1) The Oregon Hemp Commission may adopt rules to establish the amount
 33 of payment that a member of the commission receives under ORS 292.495 for each day, or
 34 portion of a day, during which the member is engaged in the performance of official duties.
 35 The amount must be at least the amount of payment that would otherwise be provided under
 36 ORS 292.495.

37 (2) Members, officers and employees of the commission must receive their actual and
 38 necessary travel and other expenses incurred in the performance of their official duties.
 39 Subject to any limitations described under ORS 292.495 (2), the commission shall adopt rules
 40 governing the incurring and paying of the expenses described in this subsection.

41 **SECTION 9.** (1) The Oregon Hemp Commission shall establish a meeting place anywhere
 42 in this state, but must consider in selecting the location the convenience of the majority of
 43 those persons most likely to have business with the commission or to be affected by the acts
 44 of the commission.

45 (2) Notwithstanding subsection (1) of this section, the commission may participate in

1 meetings outside the state for the purposes of advancing the work of the commission.

2 (3) The commission may take action only at meetings held within this state.

3 **SECTION 10.** The Oregon Hemp Commission may:

4 (1) Conduct scientific research to discover and develop the commercial value of hemp and
5 hemp products.

6 (2) Disseminate reliable information founded upon the research conducted under sections
7 1 to 36 of this 2021 Act that shows the value of hemp and hemp products for any purpose for
8 which hemp and hemp products may be found useful and profitable.

9 (3) Study federal and state legislation with respect to tariffs, duties, reciprocal trade
10 agreements, import quotas and other matters concerning the effect of the legislation on the
11 hemp industry, and represent and protect the interests of the hemp industry with respect
12 to any legislation, proposed legislation or executive action that may affect the hemp indus-
13 try.

14 (4) Act jointly and in cooperation with the federal government, or any federal agency, in
15 the administration of any program of the federal government or federal agency that the
16 commission determines is beneficial to the hemp industry in this state, and expend funds in
17 connection with the administration of a program described in this subsection, provided that
18 the program is compatible with the powers conferred on the commission by sections 1 to 36
19 of this 2021 Act.

20 (5) Enter into contracts for advertising hemp and for developing new markets through
21 advertising.

22 (6) Develop plans or projects for promotion and advertising research, consumer infor-
23 mation and industry information, and create programs that will lead to the development of
24 new markets, marketing strategies, increased efficiency and activities to enhance the image
25 of the hemp industry.

26 (7) Appoint all subordinate officers and employees of the commission and establish their
27 duties and compensation.

28 (8) Levy the assessments described in section 18 of this 2021 Act.

29 (9) Borrow money in amounts that do not exceed estimated revenues from assessments
30 for the year.

31 (10) Enter into contracts for carrying out the duties of the commission, in addition to
32 those duties described in subsection (5) of this section.

33 (11) Subject to ORS 30.260 to 30.300, sue and be sued in the name of the commission.

34 (12) Request that the Attorney General prosecute in the name of the State of Oregon
35 suits and actions for the collection of assessments levied by the commission.

36 (13) Participate in federal and state hearings or other proceedings concerning regulation
37 of the manufacture, distribution, sale or use of pesticides as defined in ORS 634.006 or other
38 chemicals that are of use or potential use to producers. This subsection does not authorize
39 the commission to regulate the use of pesticides.

40 (14) To the extent consistent with the duties of the commission, participate in and co-
41 operate with local, state, national and international private organizations or governmental
42 agencies that engage in work similar to that of the commission.

43 (15) Provide mechanisms for maintaining and expanding existing markets and developing
44 new domestic and international markets for hemp, including but not limited to:

45 (a) Public relations programs;

1 (b) Media relations programs;

2 (c) Paid print, electronic and position advertising;

3 (d) Point of sale promotion and coupon programs; and

4 (e) Activities that prevent, modify or eliminate trade barriers that obstruct the free flow
5 of hemp to market.

6 (16) Conduct and fund research, in addition to that described in subsection (1) of this
7 section, to:

8 (a) Enhance the commercial value of hemp and hemp products;

9 (b) Discover the benefits to public health, the environment or the economy of consuming
10 or otherwise using hemp;

11 (c) Develop better and more efficient production, harvesting, irrigation, processing,
12 transportation, handling, marketing and uses of hemp;

13 (d) Control or eradicate hazards to hemp, including but not limited to hazards from dis-
14 eases, pests and weeds, while supporting coexistence between hemp and other agricultural
15 crops, including marijuana;

16 (e) Develop viable alternatives for the rotation of crops;

17 (f) Determine new or potential demand for hemp and develop appropriate market devel-
18 opment strategies for capturing that demand; and

19 (g) Measure the effectiveness of marketing, advertising or promotional programs.

20 (17) Gather, publicize and disseminate information that shows the importance of the
21 consumption and other uses of hemp to public health, the environment, the economy and the
22 proper nutrition of children and adults.

23 (18) Further the purposes of this section by funding scholarships for or providing finan-
24 cial assistance to persons or entities interested in hemp.

25 (19) Adopt rules as necessary to carry out the duties, functions and powers conferred on
26 the commission by this section.

27 **SECTION 11.** (1)(a) The Oregon Hemp Commission may contract with an independent
28 contractor for the performance of any service, except that the commission may not contract
29 with an independent contractor to perform discretionary functions of the commission.

30 (b) ORS 279.835 to 279.855 and ORS chapters 240, 279A, 279B and 279C do not apply to the
31 commission in obtaining services described in this subsection, except that a contract for
32 services described in this subsection may not take effect until the contract is approved by
33 the State Department of Agriculture under subsection (7) of this section.

34 (2)(a) The commission may rent space or acquire supplies and equipment from any con-
35 tractor as described in subsection (1) of this section.

36 (b) ORS 276A.206, 279.835 to 279.855 and 283.085 to 283.092 and ORS chapters 276, 278,
37 279A, 279B, 279C and 283 do not apply to rentals or acquisitions described in this subsection.

38 (3) Except as provided in this section, a contractor described in subsection (1) of this
39 section shall be considered an independent contractor and not an employee, eligible em-
40 ployee, public employee or employee of the state for purposes of Oregon law, including ORS
41 chapters 236, 238, 238A, 240, 243, 291, 316 and 652.

42 (4) Nothing in this section precludes the state or the commission from being considered
43 the employer of the contractor described in subsection (1) of this section for purposes of
44 unemployment compensation under ORS 670.600 and ORS chapter 657.

45 (5) A contractor described in subsection (1) of this section shall be considered an inde-

1 pendent contractor and not a worker for purposes of ORS 670.600 and ORS chapter 656.

2 (6) A contractor described in subsection (1) of this section may not be considered a public
 3 official, public officer, state officer or executive official for purposes of Oregon law, including
 4 ORS 171.725 to 171.785 and ORS chapters 236, 244, 292, 295 and 297.

5 (7) The department shall review the contract described in subsection (1) of this section
 6 for the adequacy of the clauses pertaining to statement of work, starting and ending dates,
 7 consideration, subcontracts, funds authorized in the budget, amendments, termination,
 8 compliance with applicable law, assignment and waiver, access to records, indemnity, own-
 9 ership of work product, nondiscrimination, successors in interest, attorney fees, tax certi-
 10 fication or merger or any other clause the department deems necessary.

11 (8) The Department of Justice shall review any contracts, agreements and similar fund-
 12 ing devices that meet or exceed the fund threshold established by the department by rule.

13 (9) The Oregon Department of Administrative Services, in consultation with the State
 14 Department of Agriculture, shall adopt rules necessary for the screening and selection of
 15 independent contractors under this section.

16 (10) Except as provided under subsection (9) of this section, the State Department of
 17 Agriculture may adopt rules as necessary to carry out this section.

18 **SECTION 12.** (1) The Oregon Hemp Commission shall:

19 (a) Adopt a budget, obtain budget approval and submit financial statements in the same
 20 manner as a commodity commission acting under ORS 576.416.

21 (b) Receive, deposit, invest, expend and budget moneys in the same manner as a com-
 22 modity commission acting under sections 26, 31, 32 and 33 of this 2021 Act.

23 (2) The commission may accept grants, donations or contributions from any source and
 24 for expenditures for any purpose consistent with the powers conferred on the commission.

25 **SECTION 13.** (1) Upon request by the Oregon Hemp Commission, the Oregon Department
 26 of Administrative Services may:

27 (a) Purchase or otherwise provide for acquiring or furnishing supplies, materials, equip-
 28 ment and services, other than personal services, that the commission requires and for in-
 29 dependent contractors to furnish professional services to the commission.

30 (b) Provide for printing and multiple duplication work for the commission under ORS
 31 282.010 to 282.050, except for printing and binding that advertises or promotes hemp or hemp
 32 products.

33 (c) Provide for services to the commission for disposing of surplus, obsolete or unused
 34 supplies, materials and equipment under ORS 279A.280.

35 (d) Provide for central telephone service, central mail service and messenger services to
 36 the commission under ORS 283.140.

37 (e) Provide motor vehicles for use by members, officers and employees of the commission
 38 under ORS 283.305 to 283.350.

39 (2) The commission shall pay to the department an amount for services performed by the
 40 department under subsection (1) of this section that the department determines is adequate
 41 to reimburse the department.

42 (3) Upon request by the commission, the department may design and supervise the in-
 43 stallation of an accounting system for the commission. The commission shall pay to the de-
 44 partment an amount for services performed by the department under this subsection that
 45 the department determines is adequate to reimburse the department.

1 **SECTION 14.** (1) The Oregon Hemp Commission may elect to provide services, facilities
 2 and materials to commodity commissions created under ORS 576.051 to 576.455, the Oregon
 3 Wheat Commission, the Oregon Beef Council and other state agencies and officers under
 4 ORS 283.110.

5 (2) Upon request by the Oregon Hemp Commission, any other entity described in sub-
 6 section (1) of this section may provide services, facilities and materials to the commission
 7 under ORS 283.110.

8 **SECTION 15.** ORS 291.026, 291.201 to 291.222, 291.232 to 291.260, 291.322 to 291.334, 292.210
 9 to 292.250, 293.260 to 293.280, 293.295 to 293.346 and 293.590 to 293.640 do not apply to the
 10 Oregon Hemp Commission or to the administration and enforcement of sections 1 to 36 of
 11 this 2021 Act.

12 **SECTION 16.** (1) Wages or salaries of employees of the Oregon Hemp Commission are
 13 not subject to personnel compensation plans for state employees established by the Oregon
 14 Department of Administrative Services under ORS 240.235 to 240.250.

15 (2) The commission is not required to utilize office space provided or obtained by the
 16 department as provided in ORS chapter 276.

17 (3) The State Department of Agriculture may charge and collect from the commission
 18 an assessment or fee to reimburse the department for supervisory or administrative func-
 19 tions the department is required by law to perform for the commission. The department shall
 20 establish the amount of the assessment or fee by rule.

21 **SECTION 17.** (1) As used in this section, “intellectual property” means patents, copy-
 22 rights, trademarks, inventions, discoveries, processes, ideas and other similar property,
 23 whether or not they are patentable or copyrightable.

24 (2)(a) The Oregon Hemp Commission may:

25 (A) Consistent with the purposes of the commission, develop intellectual property that
 26 relates to hemp or assists in the implementation, maintenance or development of commis-
 27 sion programs.

28 (B) Take all necessary and proper actions, including but not limited to entering into
 29 contracts and other agreements and owning, managing, disposing of or using the intellectual
 30 property.

31 (b) The commission shall adopt rules to govern the ownership, management, disposal and
 32 use of intellectual property and other activities of the commission relating to intellectual
 33 property.

34 (3) Moneys received by the commission as a result of the ownership, management, dis-
 35 posal or use of intellectual property, or other activities of the commission relating to intel-
 36 lectual property, must be deposited into the account established by the commission as
 37 described in section 26 of this 2021 Act.

38 **SECTION 18.** (1) As used in this section:

39 (a) “Commodity” means hemp.

40 (b) “Industry average unit price” means the average unit price for the raw commodity
 41 within the industry and includes prices that are calculated using a one-year, two-year or
 42 three-year average and data from the most recent complete year or years preceding the year
 43 of determination.

44 (2)(a) The Oregon Hemp Commission may assess, levy and collect an assessment in an
 45 amount determined by rule, on all units of the commodity grown or produced in this state

1 and sold in commercial channels. The commission may not apply an assessment to a trans-
 2 action that occurred prior to the effective date of the rule in which the commission adopted
 3 the assessment.

4 (b) The commission may assess, levy and collect a differential assessment in an amount
 5 determined by the commission by rule, based on the intended use, type or variety and value
 6 of the commodity.

7 (c) Casual sales made by a producer directly to a consumer are exempt from the as-
 8 sessment described in this subsection.

9 (d) The commission may by rule define and regulate processing and casual sales of the
 10 commodity and the methods of assessment under this section.

11 (3) The amount of the assessment provided for in subsection (2) of this section is limited
 12 as follows:

13 (a) If the commission assesses on a unit basis, the maximum assessment may not exceed
 14 1.5 percent of the industry average unit price. The commission may determine the industry
 15 average unit price by considering data and estimates of the United States Department of
 16 Agriculture, Oregon State University or other reliable sources.

17 (b) If the commission assesses on a percentage of the dollar value basis, the maximum
 18 assessment may not exceed 1.5 percent of the dollar value that a producer receives for the
 19 raw commodity. If the dollar value is not otherwise determinable, the commission may es-
 20 tablish the dollar value based on the industry average unit price for that year for the raw
 21 commodity.

22 (4) The commission shall assess, levy and collect an assessment under subsection (2) of
 23 this section from the producer at the time and in the manner provided by the commission
 24 by rule. The commission is the owner of a collected assessment. A person who collects an
 25 assessment holds the assessment in trust for the benefit of the commission and the state,
 26 and shall remit the assessment as required by the commission under section 20 of this 2021
 27 Act.

28 (5) Notwithstanding subsection (4) of this section, the commission may assess, levy and
 29 collect an assessment from a producer as determined by the commission by rule. Except as
 30 provided in subsection (6) of this section, the assessment may not exceed the limits described
 31 in subsection (3) of this section.

32 (6) Notwithstanding subsection (5) of this section, the commission may assess, levy and
 33 collect an assessment in excess of the limits described in subsection (3) of this section pur-
 34 suant to a federal marketing order or agreement.

35 (7) A person who believes that the amount of an assessment is incorrect may apply to
 36 the commission for a refund not later than 60 days after the date on which the person paid
 37 the assessment.

38 **SECTION 19.** (1) The Oregon Hemp Commission may establish by rule exemptions from
 39 the assessments described in section 18 of this 2021 Act based on:

- 40 (a) Hemp quantities;
- 41 (b) Types of hemp sales;
- 42 (c) Types of hemp producers; and
- 43 (d) Types of hemp processors.

44 (2) In adopting a rule under subsection (1) of this section, the commission shall consider:

- 45 (a) Federal laws and rules, and laws and rules of other states, that relate to commodity

1 commissions, boards and marketing orders;

2 (b) The practices, procedures and customs unique to the production, processing and
3 trading of hemp and to producers; and

4 (c) The cost of collecting the particular assessment and any practical problems relating
5 to the collection.

6 (3) A producer or processor that is exempted from assessment but required to submit
7 reports to the commission is subject to section 22 of this 2021 Act.

8 **SECTION 20.** (1) A person responsible for collecting an assessment on behalf of the
9 Oregon Hemp Commission:

10 (a) Shall report to the commission as required by the commission by rule.

11 (b) Who fails to deduct an assessment at the time of sale shall report and pay the as-
12 sessment to the commission.

13 (2) This section applies to a producer that is required to report and pay an assessment.

14 **SECTION 21.** (1) When a processor lives, or has the processor's office, in Oregon, the
15 producer shall report all transfers or sales made to the processor on forms provided by the
16 Oregon Hemp Commission and pay the assessment moneys directly to the commission.

17 (2) When a processor lives, or has the processor's office, in another state or country or
18 is a federal or other governmental agency, the producer shall report all transfers or sales
19 made to the processor on forms provided by the Oregon Hemp Commission and pay the as-
20 sessment moneys directly to the commission.

21 (3) If a producer is also licensed as a processor and performs all or part of the producer's
22 processing functions that would normally be performed by another person in the role of
23 processor, the producer shall report all transfers or sales of hemp from the production of
24 the producer on forms provided by the commission and pay the assessment moneys directly
25 to the commission.

26 **SECTION 22.** (1) A person required to pay or collect an assessment on hemp under
27 sections 1 to 36 of this 2021 Act shall maintain accurate records sufficient to enable the
28 Oregon Hemp Commission to determine by inspection and audit the accuracy of assessments
29 paid or due to the commission and of reports made or due to the commission.

30 (2) For purposes of determining the accuracy of assessments paid or due to the com-
31 mission, the commission, or a person authorized by the commission, may:

32 (a) Make an inspection during normal business hours of the business premises of a per-
33 son required to pay or collect an assessment; and

34 (b) Audit the records of a person required to pay or collect an assessment.

35 (3) For purposes of determining the accuracy of assessments paid or due to the com-
36 mission, the commission may issue a subpoena for the production of any books, records or
37 documents related to the payment or collection of an assessment to a person required to pay
38 or collect the assessment.

39 (4) If an audit determines that a person is delinquent in the payment or collection of an
40 assessment, the person shall pay the cost of the audit, not to exceed an amount equal to the
41 delinquent assessment.

42 **SECTION 23.** (1) In addition to the penalties prescribed in section 36 of this 2021 Act, a
43 person who delays transmittal of funds beyond the time set by the Oregon Hemp Commission
44 shall pay a penalty of 10 percent of the amount due and one and one-half percent interest
45 per month on the unpaid balance of the assessment.

1 (2) The commission may waive the penalty and interest described in subsection (1) of this
2 section upon a showing of good cause, as determined by the commission by rule.

3 (3) Notwithstanding subsection (1) of this section, if an assessment is collected pursuant
4 to a federal marketing order or agreement, the commission may establish a penalty or in-
5 terest rate that is consistent with the federal marketing order or agreement.

6 **SECTION 24.** (1) If a person responsible for the transmittal of assessment moneys to the
7 Oregon Hemp Commission fails to relinquish assessment moneys collected, the person shall
8 pay an amount equal to twice the amount of the unrelinquished assessment moneys.

9 (2) The commission may commence a civil action or utilize any other available legal or
10 equitable remedy to collect an assessment or civil penalty, obtain injunctive relief or obtain
11 specific performance under sections 1 to 36 of this 2021 Act.

12 (3) If the person responsible for the transmittal of assessment moneys is a cooperative,
13 corporation or joint venture, all directors and officers of the cooperative, corporation or joint
14 venture are personally liable for a failure to relinquish the assessment moneys collected by
15 the cooperative, corporation or joint venture.

16 (4) If the commission obtains a favorable judgment in an action or suit under subsection
17 (2) of this section, the court shall award to the commission costs and reasonable attorney
18 fees.

19 (5) Unless the person required to pay an assessment and the person responsible for col-
20 lecting the assessment are related businesses, the commission may not collect from the
21 person required to pay the assessment any amount deducted by the person responsible for
22 collecting the assessment and due and owing to the commission.

23 **SECTION 25.** (1) A producer may dispute the amount of an assessment levied against the
24 producer on a unit basis under section 18 of this 2021 Act if the total assessment levied
25 against the producer during an assessment period established by the Oregon Hemp Com-
26 mission by rule exceeds the total dollar value received by the producer for the hemp during
27 that assessment period multiplied by the maximum lawful assessment percentage.

28 (2) A producer who disputes the amount of an assessment as provided under subsection
29 (1) of this section may file a challenge to the assessment with the commission not more than
30 60 days after the close of the assessment period. The challenge must be filed on a form
31 provided by the State Department of Agriculture. The commission shall process a challenge
32 under this section pursuant to rules adopted under subsection (4) of this section.

33 (3) A producer filing a challenge under this section has the burden of proving the total
34 dollar value received by the producer during the assessment period. If the producer is also
35 licensed as a processor, the producer also has the burden of proving the prices paid to the
36 producer are equivalent to prices paid in arm's-length transactions. The commission shall
37 refund the amount of the assessment that the producer proves is in excess of the total dollar
38 value received by the producer for the hemp during the assessment period multiplied by the
39 maximum lawful assessment percentage.

40 (4)(a) The department shall adopt rules to carry out this section. Rules adopted under
41 this paragraph must include, but need not be limited to, procedures for filing, processing and
42 formal or informal resolution of challenges and for determining hemp prices paid in arm's-
43 length transactions.

44 (b) The commission shall adopt rules establishing assessment periods and may adopt
45 other rules as necessary and that do not conflict with the rules adopted by the department

1 under this subsection.

2 **SECTION 26.** (1)(a) Moneys a person collects or receives from the assessment levied
 3 pursuant to section 18 of this 2021 Act, and other moneys the Oregon Hemp Commission
 4 receives, must be paid to the authorized agent of the commission and promptly deposited into
 5 an account established by the commission in a depository, as defined in ORS 295.001, that is
 6 insured by the Federal Deposit Insurance Corporation or the National Credit Union Share
 7 Insurance Fund.

8 (b) In a manner consistent with the requirements of ORS 295.001 to 295.108, the chair-
 9 person, vice chairperson and secretary-treasurer for the commission shall ensure that suf-
 10 ficient collateral secures any amount of funds on deposit that exceeds the coverage limits
 11 established by the Federal Deposit Insurance Corporation or the National Credit Union Share
 12 Insurance Fund.

13 (c) All moneys in the account are continuously appropriated to the commission for the
 14 purposes of carrying out the commission’s duties, functions and powers.

15 (2) Moneys may not be withdrawn from or paid out of the account except upon order of
 16 the commission, and upon checks or other orders upon accounts signed by the secretary-
 17 treasurer or other member of the commission that the commission designates and counter-
 18 signed by another member, officer or employee of the commission that the commission
 19 designates. The commission shall keep a receipt, voucher or other written record showing
 20 clearly the nature and items covered by each check or other order.

21 (3) Subject to approval by the Director of Agriculture, the commission may invest mon-
 22 eys the commission collects or receives. Investments the commission makes are:

- 23 (a) Limited to investments described in ORS 294.035;
- 24 (b) Subject to the investments maturity date limitations described in ORS 294.135; and
- 25 (c) Subject to the conduct prohibitions listed in ORS 294.145.

26 (4) Interest earned from any moneys the commission invests under subsection (3) of this
 27 section is available to the commission in a manner consistent with the commission’s annual
 28 budget.

29 (5) In addition to, or in lieu of, investments described in subsection (3) of this section,
 30 the commission may invest in the investment pool described in ORS 294.805. For purposes
 31 of ORS 294.805 to 294.895, the commission is a public corporation and the secretary-treasurer
 32 of the commission is the local government official.

33 **SECTION 27.** (1) A person authorized by the Oregon Hemp Commission to receive or
 34 disburse moneys under sections 1 to 36 of this 2021 Act shall obtain a fidelity bond from the
 35 Oregon Department of Administrative Services.

36 (2) The bond must be in an amount equal to the maximum amount of moneys that the
 37 commission determines the person may control. The commission may establish conditions
 38 on the person’s control of moneys under this section.

39 (3) The commission shall pay the cost of the bond.

40 (4) If the person is an employee of the commission, the department shall purchase the
 41 bond and the commission shall pay the cost of the bond.

42 **SECTION 28.** The Oregon Hemp Commission may cancel an uncollectible assessment
 43 consistent with ORS 293.240. Subsequent collection of debt written off under ORS 293.240 is
 44 governed by ORS 293.245.

45 **SECTION 29.** The Oregon Hemp Commission shall maintain accurate books, records and

1 accounts of its dealings. The books, records and accounts of the commission must be open
 2 to inspection and audit by the Secretary of State.

3 **SECTION 30.** (1) The Oregon Hemp Commission shall adopt an annual budget, using
 4 classifications of expenditures and revenues required by ORS 291.206. The budget described
 5 in this subsection is not subject to review by the Legislative Assembly or to future modifi-
 6 cation by the Emergency Board or the Legislative Assembly.

7 (2)(a) The commission shall follow generally accepted accounting principles and keep fi-
 8 nancial and statistical information as necessary to completely and accurately disclose the
 9 financial operations of the commission as required by the Secretary of State.

10 (b) The budget must show:

11 (A) The estimated receipts and expenditures by or under the authority of the commission
 12 under sections 1 to 36 of this 2021 Act for the fiscal year for which the budget is adopted;
 13 and

14 (B) The actual receipts and expenditures by or under the authority of the commission for
 15 the fiscal year preceding the fiscal year in which the proposed budget is prepared, and the
 16 estimated receipts and expenditures by or under the authority of the commission for the
 17 fiscal year in which the budget is prepared.

18 (3) Estimated receipts and expenditures for the fiscal year for which the budget is
 19 adopted must be fully itemized and be prepared and arranged clearly to show each item of
 20 receipts and expenditures. To the extent practicable, the items of receipts and expenditures
 21 must be arranged under major groups or categories that are the same as the most recent
 22 classifications of revenue and expenditures established pursuant to ORS 291.206.

23 (4) The budget must contain only one estimate for emergency or other expenditures that
 24 are unforeseen at the time the budget is prepared.

25 (5)(a) The commission shall call and hold at least one public meeting on the proposed
 26 budget. The commission shall, in determining the time and place of the meeting, consider the
 27 convenience of the majority of the producers licensed by the State Department of Agricul-
 28 ture.

29 (b) At a meeting described in this subsection, any person has the right to be heard with
 30 respect to the proposed budget.

31 (6) At least 14 days prior to the date of a meeting described in subsection (5) of this
 32 section, the commission shall publish notice at least once in a newspaper of general circu-
 33 lation in this state. The notice must include the purpose, time and place of the meeting and
 34 state that a copy of the proposed budget is available for public inspection at the place of
 35 business of the commission or other location.

36 (7)(a) After a budget has been adopted, the commission shall submit to the Director of
 37 Agriculture a copy of the budget and an affidavit setting forth the pertinent facts relating
 38 to the preparation and adoption of the budget. The director shall examine the budget and
 39 affidavit within 30 days of their receipt.

40 (b) If the director determines that the estimated receipts and expenditures conform with
 41 the authority of the commission and other requirements, and the facts set forth in the affi-
 42 davit indicate the budget was lawfully prepared and adopted, the director shall certify those
 43 determinations on the copy of the budget and make the budget final.

44 (c) If the director determines that the budget fails to meet requirements, the director
 45 shall immediately notify the commission of the failures. The commission shall promptly take

1 all practicable measures to remedy the failures and resubmit a copy of the budget to the
2 director.

3 (d) The director shall retain the certified copy of the final budget and make the budget
4 available for public inspection during normal business hours of the State Department of Ag-
5 riculture.

6 (8) The commission shall:

7 (a) Prepare an annual financial statement of commission revenues and expenses and
8 make the statement available for public review;

9 (b) Provide a copy of the annual financial statement and other required reports to the
10 department not later than 20 days after the end of the fiscal year; and

11 (c) Upon request of the Secretary of State, provide a copy of the statement to the sec-
12 retary.

13 **SECTION 31.** An expenditure of moneys for a fiscal year may not be made or incurred
14 by or under the authority of the Oregon Hemp Commission under sections 1 to 36 of this 2021
15 Act unless the commission complies with section 30 of this 2021 Act.

16 **SECTION 32.** (1) Except as otherwise provided in subsection (2) of this section, an ex-
17 penditure of moneys for a fiscal year may not be made or incurred by or under the authority
18 of the Oregon Hemp Commission under sections 1 to 36 of this 2021 Act:

19 (a) In excess of the total amount of expenditures estimated for the fiscal year in the
20 budget adopted for the fiscal year or in excess of the total amount of expenditures estimated
21 for any major category in the budget adopted for the fiscal year.

22 (b) For any purpose different than that indicated by the major category in the budget
23 adopted for the fiscal year.

24 (2) An expenditure of moneys for a fiscal year unforeseen at the time the budget is pre-
25 pared may not be made or incurred by or under the authority of the commission under
26 sections 1 to 36 of this 2021 Act in excess of the amount of unforeseen expenditures esti-
27 mated as provided in section 30 of this 2021 Act.

28 **SECTION 33.** (1) Subject to section 32 (2) of this 2021 Act, expenditures of moneys for a
29 fiscal year unforeseen at the time the Oregon Hemp Commission budget is prepared may be
30 made or incurred by order of the commission. When an unforeseen expenditure of moneys
31 occurs in a fiscal year, the commissioners must approve a motion for an order of a fund
32 transfer. The motion must include:

33 (a) The amount and purpose of the expenditure and why the expenditure was unforeseen;

34 (b) A request for the certification by the Director of Agriculture of the order;

35 (c) The specific major category of the budget to which the specific funds are to be allo-
36 cated; and

37 (d) The specific major category of the budget from which the funds are to be transferred.

38 (2) At least one copy of the order for the fund transfer must be filed in the office of the
39 commission and made available for public inspection during normal business hours of the
40 commission.

41 (3) The commission shall send the request for certification of the order for the fund
42 transfer to the director. The director shall:

43 (a) Examine the request, the commission's most recent financial statement, the minutes
44 of the meeting at which the commissioners approved the motion to request the order and
45 the budget to which the order relates.

1 (b) Certify the order if the director determines that the form of the order is in accord-
2 ance with the law, that the facts set forth in the order and the budget to which the order
3 relates indicate that the order is in accordance with the law and that the proposed unfore-
4 seen expenditure is appropriate to accomplish the goals and needs of the commission.

5 (c) Immediately notify the commission if the director determines that the order is de-
6 fective because:

7 (A) Of a failure to comply with section 30 of this 2021 Act;

8 (B) The final budget or the preparation or adoption of the final budget is defective; or

9 (C) The estimated expenditures do not conform with statutory requirements.

10 (4) If the director finds that the order is defective, the commission shall promptly take
11 all practicable steps to remedy the defects.

12 (5) After certifying an order under this section, the director shall retain the certified
13 copy of the order and make the copy available for public inspection during normal business
14 hours of the State Department of Agriculture.

15 **SECTION 34.** (1) Unless the Legislative Assembly orders a refund pursuant to subsection
16 (2) of this section, if the Legislative Assembly abolishes the Oregon Hemp Commission, any
17 moneys remaining in the possession of the abolished commission on the effective date of the
18 abolishment are transferred to Oregon State University and are continuously appropriated
19 to the university for research benefitting producers.

20 (2) The Legislative Assembly may order in an Act dissolving the commission that any
21 moneys remaining in the possession of the abolished commission on the effective date of the
22 abolishment be refunded on a proportional basis to the persons who paid assessments to the
23 commission during the assessment year in which the commission was abolished.

24 **SECTION 35.** Any sale of hemp by a producer or processor is a sale in commercial
25 channels for the purposes of section 36 of this 2021 Act.

26 **SECTION 36.** Violation of any provision of sections 1 to 36 of this 2021 Act is a Class C
27 misdemeanor.

28 **SECTION 37.** Sections 1 to 36 of this 2021 Act apply to hemp produced, processed, deliv-
29 ered, transferred or sold on and after the operative date specified in section 38 of this 2021
30 Act.

31 **SECTION 38.** (1) Sections 1 to 36 of this 2021 Act become operative on January 1, 2022.

32 (2) The Director of Agriculture, the State Department of Agriculture, the Department
33 of Justice and the Oregon Department of Administrative Services may take any action before
34 the operative date specified in subsection (1) of this section that is necessary to enable the
35 director and the departments to exercise, on and after the operative date specified in sub-
36 section (1) of this section, all of the duties, functions and powers conferred on the director
37 and the departments by sections 1 to 36 of this 2021 Act.

38 **SECTION 39.** This 2021 Act takes effect on the 91st day after the date on which the 2021
39 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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