

HB 4061 A STAFF MEASURE SUMMARY
House Committee On Agriculture, Land Use, and Water

Carrier: Rep. Helm

Action Date: 02/14/22

Action: Do pass with amendments and rescind subsequent referral to Ways and Means. (Printed A-Eng.)

Vote: 11-0-0-0

Yeas: 11 - Cate, Helm, Marsh, McLain, Owens, Reardon, Scharf, Smith DB, Wilde, Williams, Witt

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Laura Kentnesse, LPRO Analyst

Meeting Dates: 2/9, 2/14

WHAT THE MEASURE DOES:

Prohibits a person from hauling or arranging to haul water to an unregistered or unlicensed cannabis grow site that is growing a quantity of plants not allowed under state law. Prohibits a person from willfully or negligently providing false information to law enforcement or the Oregon Water Resources Department (OWRD) regarding water hauling for cannabis. Requires a water supplier who sells water to the public at a distribution location to maintain specified records of water sales for at least 12 months and immediately provide them to law enforcement or the OWRD upon request. Exempts from record requirement water sales: to state or local government bulk water purchasers, to licensed contractors, and in bulk for firefighting purposes. Gives immunity from certain civil or criminal liabilities to water suppliers who comply with the requirement to immediately submit records to law enforcement or OWRD. Requires that a person who purchases water from a water supplier at a distribution location to be hauled for irrigation or nursery purposes keep specified records for at least 12 months and immediately provide them to law enforcement or OWRD upon request. Authorizes OWRD to adopt rules for implementation. Requires OWRD, the Oregon Liquor and Cannabis Commission, and Oregon Department of Agriculture to make reasonable attempts to provide notice of the requirements to potentially interested persons. Changes the Water Resources Commission timeline to notify violators of the time allowed to correct a violation from five to ten business days after the commission first becomes aware of the violation. Establishes civil penalties for violation of record-keeping requirements related to a person who purchases water to be hauled. Establishes civil penalties and Class A misdemeanor criminal penalties for violation of the prohibition against providing false information to law enforcement or OWRD. Establishes Class A misdemeanor criminal penalties and a maximum fine of \$25,000 for violation of the prohibition against hauling or arranging to haul water to an unregistered or unlicensed cannabis grow site that is growing a quantity of plants not allowed under state law if the person owns the water hauling business or owns, operates, or is responsible for the relevant grow site. Establishes Class A misdemeanor criminal penalties and a maximum fine of \$25,000 for appropriation of surface or ground water without a permit for an unregistered or unlicensed cannabis grow site that is growing a quantity of plants not allowed under state law. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Quantity of complaints related to illegal water use for cannabis, particularly in Southern Oregon
- Oregon Water Resources Department (OWRD) challenges related to water hauling, ground water use, and property access
- Role of OWRD watermasters compared to law enforcement
- Potential impacts of proposed tools
- Attempt to avoid unintended consequences for agriculture
- Potential for more comprehensive changes during the 2023 legislative session

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EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

Illegal cannabis operations are using surface and ground water without water rights, depleting limited water resources for legitimate agricultural, recreational, residential, municipal, and other uses. According to the Oregon Water Resources Department (OWRD), these abuses often occur when water haulers legally obtain water from municipal fill stations, but then deliver the water to unregistered or unlicensed cannabis cultivation sites. It is challenging for OWRD to discern the volume of water being hauled, whether the source of water is legal, whether the end user is a legal operation, and whether water hauling receipts are accurate. OWRD does not currently have authority to impose or enforce penalties when the department finds proof of falsified water hauling claims, receipts, or other documentation. The highest criminal penalty the department can pursue is a Class B misdemeanor, which is punishable by a \$2,500 fine and possible jail time of up to six months.

House Bill 4061 A would prohibit water hauling to unregistered or unlicensed cannabis grow sites, prohibit provision of false information to law enforcement or OWRD, require maintenance of records of water sales, extend the OWRD timeline to notify violators, and establish civil and criminal penalties.