

SB 326 A STAFF MEASURE SUMMARY

Carrier: Sen. Linthicum

Senate Committee On Judiciary

Minority Report

Action Date: 03/28/23**Action:** Do pass with different amendments. (Printed A-Eng.) Minority**Fiscal:** Fiscal impact issued**Revenue:** Has minimal revenue impact**Report Signers:** Sen. Dennis Linthicum, Sen. Kim Thatcher**Prepared By:** Patricia Pascone, LPRO Analyst**Meeting Dates:** 2/2, 3/28**WHAT THE MEASURE DOES:**

Requires real property owners to clean up waste on sites used for an illegal cannabis operation, permits a city or county to pursue a civil proceeding for public nuisance abatement, provides attorney fees for the prevailing party in such proceeding, and allows a city or county to file a claim of lien on real property at the site of the illegal operation. Defines waste to include any part of a marijuana plant, irrigation materials, hoop houses and similar structures (agricultural structures), and chemicals that the Department of Environmental Quality is authorized to clean up related to illegal drug manufacturing. Makes a person leasing land responsible for cleanup if the property owner demonstrates that the owner did not know the property was used for or in connection with unlawful marijuana manufacturing or production. Specifies that, for the cleanup provisions in the measure, the city or county has the burden of proving the owner's knowledge that the property was being used for unlawful marijuana manufacturing or production. Conditions a marijuana production license on: an applicant statement accurately identifying the legal address and owner of the premises; Oregon Liquor and Cannabis Commission (OLCC) independent verification of the ownership; and, if the applicant is not the owner, OLCC must send the owner a form by certified mail with notice of the application, and the owner must confirm ownership and consent to marijuana production on a signed and witnessed OLCC form. Provides the same conditions for medical marijuana grow site registrations with the Oregon Health Authority (OHA). Provides rulemaking authority for OLCC and OHA to carry out the provisions and allows OLCC and OHA to take action prior to the operative date of the measure. Prohibits the use of permitted water rights or use of ground water at illegal cannabis grow sites and permits the Oregon Water Resources Department to impose a civil penalty. Allows law enforcement to request judicial authorization to use mobile tracking devices, wiretaps, and pen register trap and trace devices related to illegal cannabis operation enforcement. Creates a Class B felony for possession of marijuana items that exceed 32 times allowable amounts, or manufacture of more than 100 mature or immature plants, or when accompanied by specified reckless or knowing unlawful conduct related to working conditions or environmental factors. Specifies classification for reckless unlawful conduct is a crime category six on the Criminal Justice Commission's sentencing grid, and classification of knowing unlawful conduct is a crime category of eight. Provisions relating to OLCC license and OHA registration conditions have an operative date of January 1, 2024. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Scope of labor trafficking and environmental impacts from illegal cannabis operations
- Removing marijuana from controlled substances act inadvertently removed law enforcement ability to use surveillance tools
- Theft of water has increased and exacerbates drought problems
- Owner knowledge or ignorance of how property is being used by others
- Ensuring cleanup in accordance with environmental laws
- Exemption already exists for persons regulated under the Oregon Medical Marijuana Program

EFFECT OF AMENDMENT:

Makes a person leasing land responsible for cleanup if the property owner demonstrates that the owner did not know the property was used for or in connection with unlawful marijuana manufacturing or production. Specifies that, for the cleanup provisions in the measure, the city or county has the burden of proving the owner's knowledge that the property was being used for unlawful marijuana manufacturing or production. Conditions a marijuana production license on: an applicant statement accurately identifying the legal address and owner of the premises; Oregon Liquor and Cannabis Commission (OLCC) independent verification of the ownership; and, if the applicant is not the owner, OLCC must send the owner a form by certified mail with notice of the application, and the owner must confirm ownership and consent to marijuana production on a signed and witnessed OLCC form. Provides the same conditions for medical marijuana grow site registrations with the Oregon Health Authority (OHA). Replaces former signed consent form requirements with the new conditions. Provides rulemaking authority for OLCC and OHA to carry out the provisions and allows OLCC and OHA to take action prior to the operative date of the measure. Provisions relating to OLCC license and OHA registrations conditions have an operative date of January 1, 2024.

BACKGROUND:

The Task Force on Cannabis-Derived Intoxicants and Illegal Cannabis Operations was created by House Bill 3000 (2021), and then expanded by Senate Bill 1564 (2021) to recommend legislative changes to support law enforcement's response to illegal cannabis operations. The Task Force agreed upon several recommendations, including those contained in Senate Bill 326 as introduced.

Senate Bill 326 MRA requires landowners to clean up sites of unlawful cannabis production, requires that a city or county must prove the owner had knowledge of the unlawful activity if leasing the land to someone who engaged in the unlawful activity, requires the lessee to clean up the site if the owner demonstrates lack of knowledge of the unlawful activity, conditions licenses or registrations to produce marijuana on leased property on landowner confirmation of ownership and consent to the activity, prohibits water use for an illegal cannabis operation, permits warrants to authorize use of surveillance tools for illegal cannabis operation enforcement, and sets higher penalties for operations that involve large quantities, environmental violations, or certain labor violations.