

# Enrolled House Bill 4061

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture, Land Use, and Water for Representative Ken Helm)

CHAPTER .....

AN ACT

Relating to water resources; creating new provisions; amending ORS 536.900 and 537.990; and prescribing an effective date.

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

## HAULED WATER

**SECTION 1. (1) A water supplier that sells water to the public at a distribution location authorized for hauled water by the water supplier shall:**

- (a) Maintain records of the water sales that include:
  - (A) The name and contact information of the person that purchased the water.
  - (B) The date of the sale.
  - (C) The quantity of the water.
  - (D) The license plate number of the vehicle used to haul the water.
- (b) Retain the records for at least 12 months after the sales.
- (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records.

**(2) Notwithstanding subsection (1)(a) of this section, a water supplier is not required to keep records of water sold:**

- (a) To state or local government bulk water purchasers.
- (b) To contractors licensed by the Construction Contractors Board.
- (c) In bulk to be used for firefighting purposes.
- (3) Notwithstanding any contrary provision of law, a water supplier that provides records under subsection (1)(c) of this section shall have immunity from any civil or criminal liability:
  - (a) That might otherwise be incurred or imposed with respect to release of the records and any data in the records.
  - (b) With respect to participating in any judicial proceeding that results from the release of records or any data in the records.
  - (4) The Water Resources Commission may adopt rules to implement this section.

**SECTION 2. (1) A person that purchases water from a water supplier at a distribution location to be hauled for irrigation or nursery purposes shall:**

- (a) Keep records of:
  - (A) The date and location of the purchase.

- (B) The date on which the water is delivered.
- (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery.
- (D) The quantity of the water.
- (E) The intended use of the water, including the type of plant for which the water is intended to be used.
- (F) The location at which the water is used.
- (b) Retain the records for at least 12 months after the water is delivered to the location of use.
- (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records.

(2) The Water Resources Commission may adopt rules to implement this section.

**SECTION 3.** As soon as practicable after the effective date of this 2022 Act, the Oregon Liquor and Cannabis Commission, the State Department of Agriculture and the Water Resources Department shall make reasonable attempts to provide notice of the requirements described in section 2 of this 2022 Act to potentially interested persons.

**SECTION 4.** (1) A person may not haul water to, or arrange for the hauling of water to, a grow site for plants in the plant Cannabis family Cannabaceae if:

(a) The grow site is not registered or licensed under ORS 475C.065, 475C.792 or 571.281; and

(b) The crop of plants is in an amount that is not allowed under state law.

(2) A person may not willfully or negligently provide false information to law enforcement or the Water Resources Department regarding the hauling of water related to plants in the plant Cannabis family Cannabaceae.

## PENALTIES

**SECTION 5.** ORS 536.900 is amended to read:

536.900. (1) In addition to any other liability or penalty provided by law, the Water Resources Commission may impose a civil penalty on a person for *[any of the following]* **violation of:**

(a) *[Violation of any of the terms or conditions]* **A term or condition** of a permit, certificate or license issued under ORS chapters 536 to 543A.

(b) *[Violation of]* ORS 537.130 or 537.535.

(c) *[Violation of]* ORS 537.545 (5) or *[of]* a rule described in ORS 537.545 (7).

(d) *[Violation of any]* **A commission** rule or order *[of the Water Resources Commission]* that pertains to well maintenance.

(e) *[Violation of]* ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435, 540.440, 540.570 (5), 540.710, 540.720 and 540.730 or rules adopted under ORS 540.145.

**(f) Section 2 or 4 (2) of this 2022 Act.**

(2) A civil penalty may be imposed under this section for each day of violation of ORS 537.130, 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710, 540.720 or 540.730.

(3) In the event the petitioner knowingly misrepresents the map and petition required in ORS 541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established by the commission. In addition, the petition and map shall be amended to correct the error at the petitioner's cost. Affected users shall be given notice as provided in ORS 541.329 (5).

(4) A civil penalty may not be imposed until the commission prescribes a reasonable time to eliminate the violation. The commission shall notify the violator of the time allowed to correct a violation within *[five]* **10 business** days after the commission first becomes aware of the violation.

(5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the use of water under ORS 540.150 may not be considered a violation under subsection (1) of this section.

**SECTION 6.** ORS 537.990 is amended to read:

537.990. (1) Violation of ORS 537.130 (2) is a Class B misdemeanor.

(2) Any person who willfully diverts or uses water to the detriment of others without compliance with law shall be punished as provided in subsection (1) of this section. The possession or use of water, except when a right of use is acquired in accordance with law, shall be prima facie evidence of the guilt of the person using it.

(3) Violation of ORS 537.535 (1) or 537.747 is a Class B misdemeanor.

**(4) Violation of section 4 (2) of this 2022 Act is a Class A misdemeanor.**

**(5)(a) Violation of section 4 (1) of this 2022 Act with criminal negligence, as defined in ORS 161.085, is a Class A misdemeanor.**

**(b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this subsection is \$25,000 if the person:**

**(A) Owns a water hauling business; or**

**(B) Owns, operates or is responsible for the grow site to which the water was hauled or arranged to be hauled.**

**(6)(a) Notwithstanding subsections (1) to (3) of this section, violation of ORS 537.130 (2) or 537.535 that concerns the use of water at a grow site for a crop of plants in the plant Cannabis family Cannabaceae is a Class A misdemeanor if:**

**(A) The grow site is not registered or licensed under ORS 475C.065, 475C.792 or 571.281; and**

**(B) The crop of plants is in an amount that is not allowed under state law.**

**(b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this subsection is \$25,000.**

**SECTION 7. The amendments to ORS 536.900 and 537.990 by sections 5 and 6 of this 2022 Act apply to offenses committed on or after the effective date of this 2022 Act.**

#### CAPTIONS

**SECTION 8. The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.**

#### EFFECTIVE DATE

**SECTION 9. This 2022 Act takes effect on the 91st day after the date on which the 2022 regular session of the Eighty-first Legislative Assembly adjourns sine die.**

**Passed by House February 21, 2022**

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

**Passed by Senate February 28, 2022**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2022

**Approved:**

.....M.,....., 2022

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2022

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Shemia Fagan, Secretary of State