

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5531-02
Bill No.: HCS for HB 1973
Subject: Agriculture; Crimes and Punishment
Type: Original
Date: March 9, 2016

Bill Summary: This proposal allows those licensed by the Department of Agriculture to grow and handle industrial hemp.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$60,000)	(\$5,330)	(\$5,463)
Total Estimated Net Effect on General Revenue	(\$60,000)	(\$5,330)	(\$5,463)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Ag Protection Fund	(\$501)	\$9,155	\$8,428
Total Estimated Net Effect on <u>Other</u> State Funds	(\$501)	\$9,155	\$8,428

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Agriculture Protection Fund	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Agriculture (AGR)** provided the following response to this version of the proposal. HCS for HB 1973 significantly changes who can grow, harvest and cultivate industrial hemp by requiring such production in accordance with Section 7606 of the Agricultural Act of 2014.

Section 7606 of the Agricultural Act of 2014 states, in part, that under an agricultural pilot program, "only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp."

If it is the intent of HCS for HB 1973 to limit production of industrial hemp to institutions of higher education and/or the Missouri department of agriculture, we would estimate that fewer licenses would be issued than proposed under HB 1973 (perhaps only 1 or 2 institutions of higher education would now be licensed). Therefore we would anticipate fewer inspections would need to be performed and a reduction of costs to the department of agriculture for enforcement. Under this scenario, the costs proposed in Fiscal Note 5531-01 would need to be revised downward. Also note, since the license would be issued to another state entity, the opportunity to recover expenses would diminish (based on past policies of not charging other agencies for license fees).

If it is the intent of HCS for HB 1973 to allow production of industrial hemp by entities other than institutions of higher education and/or the Missouri department of agriculture, the fiscal information proposed in Fiscal Note 5531-01 remains valid.

In response to a previous version, officials at the **Department of Agriculture (AGR)** assumed the fee structure is based upon figures from the Oregon Department of Agriculture which recently implemented an industrial hemp program. Assumptions were for 15 licenses/permits.

Fees include:

195.608.3(5) allows for application fees for license and permits
license/permit fees \$300 * 15 = \$4,500

195.603.10 provides for inspection & testing

195.603.11 provides for reasonable fees

Estimated cost of 3 site inspections per year (8 hours per inspection X 3 inspections = 24 total hours per site * 15 sites @ \$174.50 per hour = \$62,820

ASSUMPTION (continued)

Department of Labor and Industrial Relations tests $\$700 * 15 = \$10,500$

Total fees estimated: \$77,820

Program will require 1 field staff for inspections. Duties will include but not limited to: application review, verification of application information, travel to field locations, perform inspections of site for verification. Will be inspecting immediately after planting, during growing season and after harvest/destruction. Will be collecting samples for testing. Will be responsible for transporting samples to the laboratory. Will be responsible for appropriate documentation of the "hemp monitoring system". Will be responsible for providing location documentation to appropriate authorities.

Oversight will show the fiscal impact based on the previous version because the intent of this version is ambiguous to the officials at AGR.

In response to a previous version, officials at the **Department of Public Safety's Missouri Highway Patrol (MHP)** stated that based on information obtained from the state of Oregon, AGR has indicated that 15 applicants may apply for licensure under this authority. Due to the limited number of potential applicants that would undergo a state and federal fingerprint-based background check with passage of this legislation, there would be a minimal fiscal impact to the Criminal Justice Information Division (CJIS) of the MHP. The cost for each background check processed is \$43.05. Twenty dollars for the state fingerprint check, \$14.75 for the federal check, and an \$8.30 charge for the electronic fingerprint option used through a third-party vendor ($\$20 + 14.75 + 8.30 = \43.05). Of this amount, the state retains the \$20 fee and \$2 of the federal charge of \$14.75 for a pass-thru fee. The \$8.30 charge is paid directly to the vendor at the time of application. Therefore, the amount deposited into the Criminal Records fund would be \$330 (15 X \$22).

Oversight will reflect a \$0 fiscal impact on the Criminal Records fund for MHP because the estimated number of applicants for the current year is 15 which is significantly less than a previous year's estimated number of 4,500 applicants as provided by AGR.

The MHP would develop an interface between the Patrol and the Department of Agriculture to receive this information and then development a database to store and retrieve the information. The work will be completed by the state's computerized criminal history vendor, Computer Projects of Illinois (CPI), because the systems affected are components of a commercial system bought by the Patrol. CPI estimated a total of 600 (80 + 120 + 70 + 100 + 90 + 80 + 60) hours of combined work @ \$100 per hour for a total price of \$60,000 (600 x \$100) based on the following projections:

ASSUMPTION (continued)

80 hours - Discovery and design
120 hours - Database modifications
70 hours - Store procedure codes
100 hours - Forms creation and redesign
90 hours - Switch routing and transactions
80 hours - Testing
60 hours - Project management
600 hours - Total

In addition, the MHP estimated an annual maintenance cost of \$5,200.

Officials at the **Department of Corrections (DOC)** defer to their response to a previous version that follows. DOC assumed this proposal creates similar offenses for growing unlicensed hemp as those for growing marijuana but removes industrial hemp from the list of controlled substances. It is assumed that the impact of the new statutes will be less illegal growing of marijuana. Only growing unlicensed hemp will be illegal.

This legislation is similar to FY16 FN 4164-01, SB 0584. The only differences in this legislation are the descriptions of the enactment and repeal of sections 195.010 and 195.017. Thus, the response to this legislation is identical. In FY15 there were a total of 17 new probation sentences and 1 new prison sentence for marijuana production. It is not known how many of these sentences are for offenses that would be classified as industrial hemp production under the proposed statutes. It is estimated that removing industrial hemp from the list of controlled substances would decrease new probations by approximately two per year. If each individual is estimated to serve approximately three years in the field, then the yearly impact to the Department of Corrections will two fewer probations per year. The total impact, a reduction of six clients in the field, will not be felt until three years after implementation.

The FY15 average cost of supervision is \$6.04 per offender per day or an annual cost of \$2,205 per offender. The DOC cost of incarceration is \$16.809 per day or an annual cost of \$6,135 per offender.

The DOC assumed this legislation will result in long term cost avoidance. Potential cost avoidance due to this legislation would not be fully realized until the 5th year (FY2020) and will vary according to the population.

The DOC cost of incarceration is \$16.725 per day or an annual amount of \$6,105 per offender. The average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453.

ASSUMPTION (continued)

This legislation could result in a term cost avoidance of approximately \$3,675 in year one, \$8,996 in year two, \$13,764 in the year three, \$14,040, in year four, and \$14,321 in year 5 and \$14,607 in year six, and \$14,899 in year seven, and \$15,197 in year eight, and \$15,501 in year nine, and \$15,811 in year ten.

Oversight assumes these amounts are minimal and will not reflect the long term cost avoidances in the fiscal note.

In response to a previous version, officials at the **Office of Secretary of State (SOS)** stated many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumed the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Office of Attorney General, Department of Mental Health, State Public Defender's Office, Office of State Courts Administrator, and Joint Committee on Administrative Rules** each assume this proposal will not have a fiscal impact on their respective organizations.

In response to a previous version, officials at **Department of Health and Senior Services** assumed this proposal would not have a fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>Costs</u> - MHP - computer programming and annual maintenance	<u>(\$60,000)</u>	<u>(\$5,330)</u>	<u>(\$5,463)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$60,000)</u>	<u>(\$5,330)</u>	<u>(\$5,463)</u>
AG PROTECTION FUND			
<u>Income</u> - AGR - license and inspection fees	\$77,820	\$77,820	\$77,820
Costs - AGR			
Personal Service (1 FTE)	(\$31,860)	(\$38,614)	(\$39,000)
Fringe Benefits	(\$17,114)	(\$20,641)	(\$20,747)
Expense & Equipment	<u>(\$29,347)</u>	<u>(\$9,410)</u>	<u>(\$9,645)</u>
Total Costs - AGR	<u>(\$78,321)</u>	<u>(\$68,665)</u>	<u>(\$69,392)</u>
FTE Change - AGR	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT TO THE AG PROTECTION FUND	<u>(\$501)</u>	<u>\$9,155</u>	<u>\$8,428</u>
Estimated Net FTE Change for the AG Protection Fund	1 FTE	1 FTE	1 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill exempts industrial hemp, which is defined as *Cannabis sativa* L. containing no greater than three-tenths of one percent THC, from the definition of marijuana and the list of controlled substances. It will be legal for any person who has received an industrial hemp license from the Missouri Department of Agriculture to grow, harvest, and cultivate industrial hemp. A person who wants to produce and handle agricultural hemp seed for sale to licensed industrial hemp growers and handlers must also receive an agricultural hemp seed production permit from the department.

The bill also creates an industrial hemp agricultural pilot program and enacts requirements for applying for an industrial hemp license and agricultural hemp seed production permit. The department must issue a license or permit to an applicant who meets the statutory requirements and upon satisfactory completion of a fingerprint criminal history background check. A license or permit may not be issued to a person who has been found guilty of a felony offense within 10 years or a person who, at any time, has been found guilty of a felony offense under state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance. A person who grows industrial hemp without a valid industrial hemp license is subject to an administrative fine of \$500 and must obtain an industrial hemp license within 30 days. If the person obtains the license within 30 days, the fine is refunded. If the person fails to obtain a license within 30 days, the person is fined \$1,000 per day until the person obtains a license or the crop is destroyed.

Upon issuance of a license or permit, information regarding all license and permit holders shall be forwarded to the Missouri State Highway Patrol. An industrial hemp license or agricultural hemp seed production permit is nontransferable except to a spouse or child who otherwise meets the requirements for a license or permit, is valid for a three-year term unless revoked by the department, and may be renewed as determined by the department.

Every grower or handler will be subject to an industrial hemp plant monitoring system. The department may inspect a grower or handler to ensure compliance with statutes, department rules, the monitoring system, or a final department order directed to the grower's or handler's industrial hemp operations or activities.

The department may also inspect any industrial hemp crop during the crop's growth phase and take a representative composite sample for field analysis. Crop exceeding the allowable THC limits may be detained, seized, or embargoed. The department may charge growers and handlers reasonable fees as determined by the department and adopt rules to administer the program. The department is also allowed to revoke or refuse to issue or renew an industrial hemp license or agricultural hemp seed production permit and to impose a civil penalty of not less than \$2,500 or

FISCAL DESCRIPTION (continued)

more than \$50,000 for a violation of the requirements of the license or permit, department rules relating to growing or handling industrial hemp, the monitoring system, or a final order of the department that is specifically directed to the grower's or handler's industrial hemp operations or activities. Licenses may also be revoked or not issued if other rules or regulations not pertaining to hemp are violated.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety - Highway Patrol
Department of Agriculture
Department of Corrections
Office of Secretary of State
Office of Attorney General
Department of Health and Senior Services
Office of State Courts Administrator
State Public Defender's Office
Department of Mental Health
Joint Committee on Administrative Rules



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