

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5739-01
Bill No.: HB 2034
Subject: Agriculture; Department of Agriculture; Crimes and Punishment; Drugs and
Controlled Substances
Type: Original
Date: January 22, 2018

Bill Summary: This proposal modifies provisions relating to industrial hemp.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Industrial Hemp Fund	\$3,858	\$2,121	(\$1,488)
Total Estimated Net Effect on <u>Other</u> State Funds	\$3,858	\$2,121	(\$1,488)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Industrial Hemp Fund	4 FTE	4 FTE	4 FTE
Total Estimated Net Effect on FTE	4 FTE	4 FTE	4 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 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture (AGR)** assume the proposal would expand the program currently authorized through 261.265.

The fee structure is based upon figures from the Kentucky Department of Agriculture, which recently implemented an industrial hemp program, adjusted to meet estimated program costs. Assumptions are for 100 registrations/permits.

§195.746.1 allows reasonable fees for administering sections 195.740 to 195.761.

Fees include:

- Registration/permit fees \$300 x 100 entities = \$30,000 every 3 years, or \$10,000 per year.
- Estimated cost of 2 site inspections per year @ 10 hours per inspection. 100 sites x 2 inspections per year x 10 hours per inspection x \$120 per inspection hour = \$240,000.
- Lab tests. 100 sites x 2 inspections per year x \$250 per lab test = \$50,000.
- Total fees estimated: \$300,000.

The program will require two field staff positions for inspections (Inspectors each at \$36,924 annually) and two administrative positions (each at \$33,276 annually). Duties will include but are not limited to: application review; verification of application information; travel to field locations; performing inspections of sites for verification; inspecting during growing season and pre-harvest; collecting samples for testing; transporting samples to the laboratory; inspecting documentation of the "hemp monitoring system"; and providing location documentation to appropriate authorities.

Oversight will show a fiscal impact to the Industrial Hemp Fund for costs related to four additional staff persons, equipment and expenses net anticipated revenue for registration and permit applications, inspection fees, and lab tests.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume the following regarding this proposal:

In FY 2017, the number of new admissions for cannabis production totals 34 persons to probation and 6 persons to adult institutions with a class B felony (195.211-002 and NCIC designation of 3563).

It is unknown how many of these 40 offenders cultivated industrial hemp (varieties of Cannabis sativa with less than 0.3% THC concentration). It is estimated that decriminalizing and legalizing the growing of industrial hemp will decrease incarceration and probation by 10% per year; this equates to a total decrease of three persons on probation and one person to incarceration. After January 1, 2017, cultivation of cannabis fell under statute 579.055-003, a class C felony. In FY 2017, the average sentence of probation for this class C felony was 4.3 years; the average sentence of incarceration was estimated at 6.9 years with 2.8 years until first release. The full impact occurs in FY 2024.

If this proposal is enacted, the estimated impact to DOC is three less admissions to field probation and one less to incarceration per year beginning in FY 2019; the total impact is the decrease of 16 individuals on probation and 4 fewer to incarceration beginning in FY 2025.

If this impact statement has changed from statements submitted in previous years, it is because the DOC has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole (P&P) average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

ASSUMPTION (continued)

The DOC cost of incarceration is \$17,003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

The DOC would assume this legislation will result in long term cost avoidance as indicated in the chart below.

	# to Prison	Cost per year	Total Cost Prison	# to Probation & Parole	Grand Total P&P
Year 1	1	(\$6,206)	(\$5,172)	3	(\$5,172)
Year 2	2	(\$6,206)	(\$5,172)	6	(\$5,172)
Year 3	3	(\$6,206)	(\$19,370)	9	(\$19,370)
Year 4	4	(\$6,206)	(\$26,343)	12	(\$26,343)
Year 5	4	(\$6,206)	(\$26,870)	14	(\$26,870)

Oversight assumes the estimated savings to the DOC to not be material, and have not reflected the savings in the fiscal note.

Officials from the **Office of the Secretary of State (SOS)** assume 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 assumes 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.

ASSUMPTION (continued)

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in litigation.

Officials from the **Joint Committee on Administrative Rules** state that the proposal is not anticipated to cause a fiscal impact to their agency beyond its current appropriation.

Officials from the **Office of the State Treasurer** assume this proposal would have a fiscal impact of \$0 or a negative unknown.

Officials from the **Department of Public Safety - Missouri Highway Patrol, Department of Mental Health, Department of Health and Senior Services, Department of Higher Education, Office of the State Treasurer, Office of the State Courts Administrator and Office of the State Public Defender** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **University of Central Missouri, Missouri State University and St. Louis County Department of Justice Services** each assume the proposal will have no fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
INDUSTRIAL HEMP FUND			
<u>Revenue</u> - AGR - registration/permit fees, inspection fees and lab test fees	\$300,000	\$300,000	\$300,000
<u>Costs</u> - AGR			
Personal Services	(\$117,000)	(\$141,804)	(\$143,222)
Fringe Benefits	(\$70,709)	(\$85,268)	(\$85,689)
Lab Tests	(\$41,667)	(\$51,250)	(\$52,531)
Equipment and Expense	(\$66,766)	(\$19,557)	(\$20,046)
<u>Total Costs</u> - AGR	<u>(\$296,142)</u>	<u>(\$297,879)</u>	<u>(\$301,488)</u>
FTE Change - AGR	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT ON THE INDUSTRIAL HEMP FUND	<u>\$3,858</u>	<u>\$2,121</u>	<u>(\$1,488)</u>
Estimated Net FTE Change on the Industrial Hemp Fund	4 FTE	4 FTE	4 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<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 0.3% THC, from the definition of marijuana and the list of controlled substances. In addition, it is legal for any person who has received an industrial hemp license to grow, harvest, and cultivate industrial hemp.

The bill creates an industrial hemp agricultural pilot program to be implemented by the Department of Agriculture and specifies the requirements for an applicant of an industrial hemp registration and agricultural hemp seed production permit.

FISCAL DESCRIPTION (continued)

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. Upon issuance of a license or permit, information regarding all license and permit holders must be forwarded to the 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.

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 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. A registration or permit may not be issued to a person who in the five years preceding the application has been found guilty of a felony offense under any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance. In addition, the department may revoke or refuse to issue or renew a license or permit for failing to comply with statute or for a violation of department rules regarding agricultural operations or activities other than industrial hemp growing or handling.

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.

Every grower or handler must 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 of Agriculture must develop standard identification documentation for industrial hemp and associated commodities. The department may assess growers and handlers a fee for developing the system.

FISCAL DESCRIPTION (continued)

An institution of higher education, in collaboration with the Department of Agriculture, may engage in the study of the growth, cultivation, or marketing of industrial hemp and seed. The Missouri Crop Improvement Association, in collaboration with the department, may establish and administer a certification program for agricultural hemp seed. The department may breed, plant, grow, cultivate, and harvest cannabis, and collect seeds from wild cannabis plants. The program is voluntary for growers of industrial hemp.

Currently, a food is considered adulterated if it meets certain criteria. This bill specifies that a food shall not be considered adulterated if it contains industrial hemp, or an industrial hemp commodity or product.

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 Agriculture
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Office of the State Treasurer
Department of Higher Education
Attorney General's Office
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Mental Health
Department of Health and Senior Services
Office of the State Courts Administrator
Office of the State Public Defender
University of Central Missouri
Missouri State University
Missouri Western State University
St. Louis County Department of Justice Services

Ross Strope



Acting Director
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