

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3383-02  
Bill No.: Perfected HB 2061  
Subject: Food; Health and Senior Services Department  
Type: Original  
Date: February 18, 2020

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Bill Summary: This proposal creates new provisions relating to the sale of kratom products.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Local Government</b>	<b>\$0 or (Unknown) to Unknown</b>	<b>\$0 or (Unknown) to Unknown</b>	<b>\$0 or (Unknown) to Unknown</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

#### **§196.1170 - Kratom Consumer Protection Act**

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases where indigent persons are charged with the proposed new crimes regarding the drug kratom. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

**Oversight** notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, **Oversight** assumes the SPD is at maximum capacity and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, **Oversight** assumes the cost for a new APD could approach \$100,000 per year.

**Oversight** assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Officials from the **City of Kansas City** state since this bill provides state regulation of the sale of kratom products, it may reduce gross receipts of businesses selling the product. In turn, this may result in a reduction of licensing fees, which are based on gross receipts, of an indeterminable amount to the City.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a \$0 or (Unknown) fiscal impact for local governments for fiscal note purposes.

ASSUMPTION (continued)

**Oversight** notes the **Missouri Office of Prosecution Services** has stated the proposal would not have a measurable fiscal impact on their organization. The enactment of a new crime creates additional responsibilities for county prosecutors which may result in additional costs which are difficult to determine at the present time. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

**Oversight** notes the **Department of Health and Senior Services**, the **Office of State Courts Administrator** and the **City of Springfield** have each stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

**Oversight** notes the provisions of §196.1170.7 provides that the director may, after notice and hearing, impose a fine on a dealer who violates subdivision (1) of subsection 4, of not more than \$500 dollars for the first offense and not more than \$1,000 for the second or subsequent offense. Fine revenue is distributed to school districts. It is unknown whether there will be any fines or the amount of fine revenue that may be collected. Therefore, Oversight will range fine revenues received by school districts from \$0 to Unknown for purposes of this fiscal note.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

**Oversight** assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

Officials from the **Office of the Secretary of State (SOS)** state 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 \$5,000. 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 require additional resources.

ASSUMPTION (continued)

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
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**GENERAL REVENUE FUND**

<u>Costs</u> - SPD (§196.1170) - Increase in personal service, fringe benefits and other costs from new crime	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
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<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
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**LOCAL GOVERNMENTS - SCHOOL DISTRICTS**

<u>Income</u> - School Districts (§196.1170) - Fine income	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
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<u>Reduction in Revenue</u> - Cities (§196.1170) - Reduction of licensing fees	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
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<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<b><u>\$0 or (Unknown) to Unknown</u></b>	<b><u>\$0 or (Unknown) to Unknown</u></b>	<b><u>\$0 or (Unknown) to Unknown</u></b>
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FISCAL IMPACT - Small Business

This proposal could have a negative fiscal impact for small businesses that sell kratom products. In addition, small businesses who violate provisions of this bill may be subject to fines. (§196.1170)

### FISCAL DESCRIPTION

This bill establishes the "Kratom Consumer Protection Act", which requires dealers who prepare, distribute, sell, or expose for sale a food that is represented to be a kratom product to disclose on the product label the basis on which this representation is made. A dealer is prohibited from preparing, distributing, selling, or exposing for sale a kratom product that does not conform to these labeling requirements.

A dealer may not prepare, distribute, sell or expose for sale a kratom product that is adulterated or contaminated with a dangerous non-kratom substance, contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2% composition of the product, containing any synthetic alkaloids, or does not include on its package or label the amount of mitragynine, 7-hydroxymitragynine, or other synthetically derived compounds of the plant *Mitragyna speciosa*.

A dealer may not distribute, sell or expose for sale a kratom product to anyone under 18 years of age. The bill specifies penalties for a violation of the labeling requirements and allows for a person who is aggrieved by a violation of the labeling requirements to bring a cause of action for damages resulting from the violation. (§196.1170)

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 Health and Senior Services  
Joint Committee on Administrative Rules  
Missouri Office of Prosecution Services  
Office of State Courts Administrator  
Office of Secretary of State  
Office of State Public Defender  
City of Brentwood  
City of Kansas City  
City of Springfield



Julie Morff  
Director  
February 18, 2020



Ross Strobe  
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February 18, 2020