

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3992H.04C
Bill No.: HCS for HB Nos. 1990 & 2135
Subject: Workers Compensation; Employees - Employers; Department of Labor and Industrial Relations,; Labor and Management; Drugs and Controlled Substances; Health Care
Type: Original
Date: March 14, 2024

Bill Summary: This proposal modifies provisions relating to marijuana use and workers' compensation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Local Government	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the bill, as written, may cause additional appeals to be received by both the Division of Workers' Compensation and the Labor and Industrial Relations Commission. The volume of these appeals is unknown, but anticipated to be absorbable by the division and commission.

DOLIR, via e-mail, also stated the impact to the Division of Workers' Compensation upon passage of HB 2135 and HB 1990 would be minimal. In the bill, Section 287.120.6(1) stipulates that if marijuana is used in conjunction with the injury sustained in the workplace, the compensation and death benefit shall be reduced by fifty percent, so long as marijuana usage is against company policy. Section 287.120.6(2) states that if marijuana usage is the proximate cause of injury, then the compensation and death benefit is forfeit entirely.

Workers' Compensation insurance carriers and self-insured entities may see a savings in the amount of benefits which are dispersed each year as a result of the above mentioned reduction/forfeiture of benefits. The Division of Workers' Compensation does not pay out workers' compensation benefits (with the exception of Second Injury Fund payments), and would not be affected by the reduction/forfeiture of benefits. In the event that more disputes over workers' compensation claims occur as a result of the law change, the Division may see an increase in adjudications which must be performed by administrative law judges. The Division does not anticipate the volume of any increase in disputes to require additional staffing at this time. If the volume of disputes increases more than anticipated, the Division may request additional appropriations to absorb the impact.

Oversight assumes DOLIR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOLIR could request funding through the appropriation process.

Officials from the **Office of Administration (OA)** assume Section 287.120.6 – This legislation adds a provision to include the use of marijuana or a positive marijuana drug test, or refusal to take a marijuana drug test as not permissible in the workplace when the employer has adopted a drug free workplace policy. The legislation also makes the provisions of this section subject to Article XIV, Section 1 of the Constitution of the state of Missouri relating to medical use of marijuana and the nondiscrimination provision of subdivision 15 of subsection 7 of Article XIV Section 1 of the Constitution of the State of Missouri. This has the potential to avoid costs to the state, but it would be subject to judicial construction. Any potential cost avoidance is unknown.

Section 287.140.15 – This legislation adds a provision that does not require an employer to reimburse or cause to be reimbursed an employee any costs associated with the medical use of

marijuana. This has the potential to avoid costs to the state, but it would be subject to judicial construction. Any potential cost avoidance is unknown.

Oversight notes upon further discussions with the OA, via e-mail, OA notes the state does not currently pay for medical marijuana as part of treatment in workers' compensation cases; therefore, it is expected that the state would not see a change in costs associated with medical marijuana in workers' compensation cases. However, since this legislation would be subject to judicial interpretation, any potential costs or avoidance of costs are unknown at this time.

Oversight assumes OA could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA could request funding through the appropriation process.

Officials from the **Office of Administration - Administrative Hearing Commission**, the **Missouri Department of Conservation**, and the **Missouri Department of Transportation** each assume the proposal will have no 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 above respective organizations.

Officials from the **University of Missouri System**, the **Northwest Missouri State University** and the **University of Central Missouri** both assume the proposal will have no fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for above respective organizations.

Officials from the **City of Kansas City** assume the proposal will have no fiscal impact on their organization.

Oversight notes the proposal reduces the compensation and death benefit by 50% if an employee's injury was sustained in conjunction with the use of marijuana against the employer's rule or policy. Therefore, Oversight will reflect a potential savings (cost avoidance), in cases where the employer pays 50% reduced amount stemming from work rule violation, to the local political subdivision in the fiscal note.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost savings (cost avoidance) – reduced workers’ compensation and/or death benefit if worker fails to obey policy regarding marijuana §287.120</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>

FISCAL IMPACT – Small Business

Small businesses could have a higher level of protection in workers compensation cases involving employees using marijuana as a result of this proposal.

FISCAL DESCRIPTION

Currently, if an employee fails to obey any rule or policy adopted by the employer relating to a drug-free workplace or the use of alcohol, or unprescribed controlled drugs in the workplace and violating the rule or policy is the proximate cause of the injury or death the employee's benefit shall be reduced or forfeited, as specified in the bill. This bill adds marijuana to the list of any drug-free workplace rule or policy adopted by an employer.

If an employer elects to discipline an employee on the basis that the employee is under the influence or impaired by marijuana, the employer must give the employee a reasonable opportunity to contest the determination.

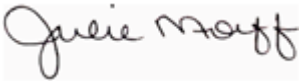
Under the bill, any specific reference to marijuana or marijuana metabolites shall not apply to medical marijuana or metabolites related to medical marijuana for a person who has a valid qualifying patient identification card legally certifying the person's status as a qualifying patient.

An employer is not required to reimburse or cause to be reimbursed an employee any costs associated with the medical use of marijuana.

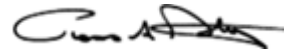
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
Office of Administration - Administrative Hearing Commission
Department of Labor and Industrial Relations
Missouri Department of Conservation
Missouri Department of Transportation
Northwest Missouri State University
University Of Central Missouri
University of Missouri System
City of Kansas City



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March 14, 2024



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