

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1398-01
Bill No.: SB 255
Subject: Agriculture and Animals; Agriculture Department; Crimes and Punishment;
 Drugs and Controlled Substances; Highway Patrol; Licenses- Miscellaneous
Type: Original
Date: February 19, 2015

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
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 2016	FY 2017	FY 2018
AG Protection	(\$38,906)	(\$29,235)	(\$30,057)
Criminal Records	Less than \$100,000	Less than \$100,000	Less than \$100,000
Total Estimated Net Effect on Other State Funds	(Less than \$38,906)	(Less than \$29,235)	(Less than \$30,057)

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
AG Protection	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 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Agriculture (AGR)** assume the fee structure is based upon figures from the Oregon Department of Agriculture which recently implemented an industrial hemp program. Assumptions are for 15 licenses/permits.

Fees include:

195.608.3(5) allows for application fees for license and permits license/permit fees
 $\$150 * 15 =$ \$2,250

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 @ \$92 per hour = \$33,120

Lab tests $\$350 * 15 =$ \$3,500

Total fees estimated: \$38,870

The program will require 1 field staff (Investigator at \$38,232) 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. The Investigator will be inspecting immediately after planting during growing season and after harvest/destruction. The Investigator will be collecting samples for testing, and will be responsible for transporting samples to the laboratory. The FTE will be responsible for appropriate documentation of the "hemp monitoring system", and be responsible for providing location documentation to appropriate authorities. AGR assumes the need for 1 Jeep Patriot Sport 4x4 at \$19,343 for use by the Investigator. In summery, AGR assumes an annual cost of approximately \$68,000 for the FTE, partially offset by revenues of \$38,870 as described above, all to the Agriculture Protection Fund.

Officials at the **Department of Public Safety's Missouri Highway Patrol (MHP)** assume the Missouri Department of Agriculture was not able to determine the number of industrial hemp growers and handlers that would require a background check upon the passage of this legislation. 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.

ASSUMPTION (continued)

However, since the total number of growers and handlers is not known, the potential revenue received from the background checks is not able to be determined.

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 estimates 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:

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 estimates an annual maintenance cost of \$5,200.

More than 4,500 additional background checks would have to be processed by the MHP to reach \$100,000 of income ($\$100,000 / \$22.00 = 4,545$ applicants). **Oversight** assumes MHP will not process that many background checks as a result of this proposal; therefore, Oversight will assume annual revenue collections into the Criminal Records Fund will total less than \$100,000.

Officials at the **Department of Corrections (DOC)** assume 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.

In FY14 there were 15 new admissions for drug manufacturing and distributions involving marijuana but it is not known how much would have been classified as industrial hemp or would be grown by licensed growers. It is estimated that removing industrial hemp as a controlled substance will reduce new admissions by 1 Class B felony per year. The average time served for the class B offenses is 3 years and 5 years on parole.

ASSUMPTION (continued)

The DOC assumes 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.

This legislation could result in a cost avoidance of approximately \$3,043 in year one, \$7,450 in year two, \$11,399 in the year three, \$9,019, in year four, and \$6,538 in year 5 and beyond.

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

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of unlicensed industrial hemp production - a new Class A misdemeanor.

While the number of new cases 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.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials at the **Office of Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Department of Health and Senior Services, Department of Mental Health, Joint Committee on Administrative Rules** and the **Office of the State Courts Administrator** each assume there is no fiscal impact to their respective organizations from this proposal.

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 \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet

ASSUMPTION (continued)

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.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE			
<u>Cost - MHP - computer interface between MHP and AGR</u>	<u>(\$60,000)</u>	<u>(\$5,200)</u>	<u>(\$5,200)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$60,000)</u>	<u>(\$5,200)</u>	<u>(\$5,200)</u>
AG PROTECTION FUND			
<u>Income - AGR - license and inspection fees</u>	\$38,870	\$38,870	\$38,870
<u>Costs - AGR</u>			
Personal Service (1 FTE)	(\$31,860)	(\$38,614)	(\$39,000)
Fringe Benefits	(\$16,569)	(\$20,081)	(\$20,282)
Expense & Equipment	<u>(\$29,347)</u>	<u>(\$9,410)</u>	<u>(\$9,645)</u>
<u>Total Costs - AGR</u>	<u>(\$77,776)</u>	<u>(\$68,105)</u>	<u>(\$68,927)</u>
ESTIMATED NET EFFECT TO THE AG PROTECTION FUND	<u>(\$38,906)</u>	<u>(\$29,235)</u>	<u>(\$30,057)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2016 (10 Mo.)	FY 2017	FY 2018
CRIMINAL RECORDS FUND			
<u>Income</u> - MHP - background checks - state retains \$22 of the \$43.05 fee	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>
ESTIMATED NET EFFECT TO THE CRIMINAL RECORDS FUND	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses that handle or process industrial hemp will need to comply with this proposal including obtaining necessary licenses and background checks.

FISCAL DESCRIPTION

This act exempts industrial hemp, which is defined as cannabis sativa L. containing no greater than 3/10 of one percent THC, from the definition of marijuana and the list of controlled substances.

In addition, this act specifies that it is legal for any person who maintains a permanent home in Missouri, has not been convicted of a felony or drug-related misdemeanor offense, and has received an industrial hemp license from the Missouri Department of Agriculture to grow 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.

This act specifies the requirements for an applicant of 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

FISCAL DESCRIPTION (continued)

history background check. 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 and valid for a three-year term unless revoked by the department and may be renewed as determined by the department.

This act requires that every grower or handler be subject to an industrial hemp plant monitoring system. The department may inspect a grower or handler to ensure compliance statute, 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.

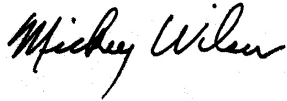
This act allows the department to charge growers and handlers reasonable fees as determined by the department and to adopt rules to administer the program. The department is also allowed to revoke or refuse to issue or renew an industrial hemp license or agricultural hemp seed production permit and to impose a civil penalty of not less than \$2,500 or 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. 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.

This act creates the offense of unlicensed industrial hemp production. A person commits the act if he or she does not have a valid industrial hemp license and possesses, has under his or her control, distributes, delivers, manufactures, or produces any amount of industrial hemp. The penalty ranges from a Class A misdemeanor to a Class A felony depending on the amount of industrial hemp and the conduct committed by the defendant.

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



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