

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1746-01  
Bill No.: SB 371  
Subject: Drugs and Controlled Substances; Health Care; Health Care Professionals; Health and Senior Services Department; Pharmacy; Physicians; Licenses - Miscellaneous  
Type: Original  
Date: February 17, 2017

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Bill Summary: This proposal permits the use of hemp oil for the treatment of certain impairments.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>  |                    |                  |                    |
|--|--------------------|------------------|--------------------|
| FUND AFFECTED  | FY 2018            | FY 2019          | FY 2020            |
| General Revenue                                      | (\$520,598)        | \$486,503        | \$1,197,374        |
| <b>Total Estimated Net Effect on General Revenue</b> | <b>(\$520,598)</b> | <b>\$486,503</b> | <b>\$1,197,374</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>              |                  |                  |                  |
|---|------------------|------------------|------------------|
| FUND AFFECTED   | FY 2018          | FY 2019          | FY 2020          |
| Agriculture Protection  | (\$6,273)        | \$121,242        | \$120,131        |
|   |                  |                  |                  |
| <b>Total Estimated Net Effect on <u>Other</u> State Funds</b> | <b>(\$6,273)</b> | <b>\$121,242</b> | <b>\$120,131</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 14 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                  |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2018    | FY 2019    | FY 2020    |
|   |            |            |            |
|   |            |            |            |
| <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> |          |           |           |
|---|----------|-----------|-----------|
| FUND AFFECTED   | FY 2018  | FY 2019   | FY 2020   |
| General Revenue   | 3        | 71        | 71        |
| Agriculture Protection                                    | 1        | 1         | 1         |
| <b>Total Estimated Net Effect on FTE</b>                  | <b>4</b> | <b>72</b> | <b>72</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> |            |            |            |
|--|------------|------------|------------|
| FUND AFFECTED                              | FY 2018    | FY 2019    | FY 2020    |
| <b>Local Government</b>                    | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Department of Health and Senior Services (DHSS), Division of Community and Public Health (DCPH)** state that under section 192.945, RSMo, DHSS is currently issuing hemp extract registration cards for persons suffering from intractable epilepsy. This proposal would expand the current program by allowing the issuance of registration cards for persons with a serious condition or seizure disorder to utilize hemp extract.

### **Applications**

The State of Oregon has a similar program in place that allows for the issuance of a registration card for conditions similar to those being proposed for the issuance of a hemp extract registration card under this proposed legislation. For purposes of this fiscal note, the State of Oregon's program will be benchmarked.

A study updated in March 2016 by the nonprofit entity ProCon organization published the rates of patient registration cards issued for each state with a medical marijuana program (<http://medicalmarijuana.procon.org/view.resource.php?resourceID=005889>). This study found that Oregon was issuing qualified patient cards at a ratio of 19.2 per 1,000 patient populations. While the Oregon program was initiated in May 1999 and, therefore, has an established program, the state of Missouri's chronic disease rates are generally higher and the qualifying medical conditions accepted under Missouri's proposal are broader than those of Oregon. Missouri does allow for parents or legal guardians (could be more than one) of minors to be registered. For this fiscal note, DHSS has termed additional parents or guardians as secondary registrants or caregivers.

Calculation of applications:

- **Patients:** According to the 2015 U.S. Census Bureau information, Missouri's population is at 6,083,672. Applying the rate of 19.2 applications per 1,000 residents, Missouri would estimate issuing 116,807 patient registration cards annually ( $6,083,672/1,000 = 6,083.67 \times 19.2$ ).
- **Caregivers:** According to the October 1, 2016 data on Oregon's Medical Marijuana Program Website, the ratio of patient registration cards to caregiver cards is calculated at 2.29. Calculating this same ratio, Missouri would estimate issuing 51,007 caregiver cards (secondary registrants) annually ( $116,807/2.29$ ).

ASSUMPTION (continued)

Section 192.945 requires the establishment of a the hemp extract registration program through promulgation of rules, including the development of program forms, registration card, and a system to record the name of each registrant and each minor receiving care from a registrant. As a result, DCPH anticipates the need to hire the following staff beginning on August 28, 2017 (FY18) to begin development of the system:

- One Program Manager Broad Band 2 (\$65,000 annually) - will serve as Chief of the Hemp Extract Registration Bureau. Duties will include overall program management, including involvement in rule promulgation, development of forms, program policies and procedures, information system development, and initial program set-up.
- One Health Program Representative III ( \$39,708 annually) - duties will include assistance in rule promulgation, program policies and procedures, forms development, information system development/troubleshooting and maintenance, and initial program set-up.
- One Administrative Office Support Assistant (\$28,668 annually) - duties will include providing administrative assistance to the Bureau Chief, and HPR III positions. As allowed, this position will also assist in initial processing of applications for registration cards.

For fiscal note purposes DCPH calculated 45 minutes of processing time per patient and caregiver application (116,807 patients + 51,007 caregivers = 167,814 applications) . Based on this assumption, it was determined 61 FTE will be needed (167,814 applications X 0.75 hour per application/ 2,080 hours per year = 60.5 FTE, rounded to 61 FTE). The following staff will be hired effective July 1, 2018 upon completion of the system development and implementation of the program:

41 Senior Office Support Assistant (SOSA) positions (\$26,340 each, annually) – duties will include

- processing of paper applications for the hemp extract registration program, to include opening and date stamping of mail,
- initial entry of application information into the electronic registry for patients and caregivers,
- initial verification of applicant and physician identification,
- preparation of patient and caregiver registration cards,
- answering and assisting telephone callers, and
- mailing of applicant correspondence, renewal notices, and registration cards.

ASSUMPTION (continued)

20 Health Program Representative II (HPR II) positions (\$35,640 each, annually) – duties will include

- supervision of the SOSA positions,
- quality assurance checks of the application including valid, Missouri licensed practitioners and required documentation of allowed condition(s),
- verification and approval of applications including final approval of application rejects and card issuances,
- drafting of correspondence for incomplete, inaccurate or unapproved applicants, and
- dealing with applicant and medical complaints and concerns.

Printing

DCPH assumes that 90% of registrants will renew each year and renewal cards will also need to be printed for each registrant annually. DCPH also estimates new applicants to grow by 10 percent annually. DCPH will purchase a card delivery system with the ability to print the card with the magnetic stripe, attach the card to a personalized letter, and secure an envelope ready for mailing. The initial cost of the card delivery system is estimated at \$277,000. In addition, there will be an annual equipment preventative maintenance fee of \$34,000. The average supply cost to print each card is \$0.59/card.

DCPH will print 100,000 brochures each year the program is operational at a cost of \$.06 per brochure. This brochure will provide the public with information about the hemp extract registration program and assistance in completing a valid registration.

|                          | FY 2018 | FY 2019 | FY 2020 |
|--------------------------|---------|---------|---------|
| Cards for New Applicants | 0       | 167,814 | 16,781  |
| Cards for Renewals       | 0       | 0       | 151,033 |
| Total Cards Issued       | 0       | 167,814 | 167,814 |

FY19

167,814 cards X \$0.59 per card/print supplies = \$99,010

100,000 brochures (\$0.06 per brochure) = \$6,000

FY20

167,814 cards X \$0.59 per card/print supplies = \$99,010

100,000 brochures (\$0.06 per brochure) = \$6,000

ASSUMPTION (continued)

Mailing costs

Each registrant will receive his/her card in the mail. Renewal cards will also be mailed to each registrant annually. It is also assumed five percent of applications (new and renewal) will be incomplete, requiring written notification of an incomplete application. It is also projected that 25 percent of the printed brochures (25,000) along with paper applications will be mailed to the public upon request. The other printed brochures will be available for distribution at conferences and other public venues.

Projected mailings are as follows:

|                                | FY 2018 | FY 2019 | FY 2020 |
|--------------------------------|---------|---------|---------|
| Cards mailed to new applicants | 0       | 167,814 | 16,781  |
| Renewal cards mailed           | 0       | 0       | 151,033 |
| Brochures/app mailed           | 0       | 25,000  | 25,000  |
| Incomplete Application         | 0       | 8,391   | 8,391   |
| Total mailings                 | 0       | 201,205 | 201,205 |

FY19

201,205 envelopes (\$41 per 1,000) = 202 X \$41 = \$8,282

Postage (201,205 x \$0.39/postage rate) = \$78,470

FY20

201,205 envelopes (\$41 per 1,000) = 202 X \$41 = \$8,282

Postage (201,205 x \$0.39/postage rate) = \$78,470

Application Storage Costs

In order to manage the final storage of paper applications submitted, Content Manager for electronic scanning and storage will be utilized. The costs for Content Manager are estimated at \$132 per month for the state data server costs, \$234 for an annual license for each user who needs to view files, and \$828 for an annual license for each position with ability to scan/import documents.

Application Registration Fees

The proposal allows the DHSS to establish a fee for the issuance of a hemp extract registration card. For purposes of this fiscal note, it is estimated that DHSS would charge a \$35 registration fee.

**ASSUMPTION** (continued)

It is anticipated that Missouri will receive 167,814 new applications in its first year of operation (FY 2019). In subsequent years, new applications are estimated to grow by 10 percent annually; however, renewals are estimated to decline by 10 percent annually.

Projected fees received for the three years (FY 2018 – FY 2020) are as follows:

|                        | FY 2018 | FY 2019     | FY 2020     |
|------------------------|---------|-------------|-------------|
| Application & Renewals | 0       | 167,814     | 167,814     |
| Application Fees       | \$0     | \$5,873,490 | \$5,873,490 |

Officials from the **DHSS, Division of Administration (DA)** provide the following assumptions for this proposal:

For fiscal note purposes DA estimates one Accounting Clerk can process 30,000 receipt transactions received per year. An Accounting Generalist I/II will be needed for every five Accounting Clerks.

Accounting Clerk (\$26,340 annually) – duties will include

- Opens and sorts mail;
- Process and enter receipts into the departmental computer system;
- Prepares bank deposits and cash receipts documents;
- Reconciles daily receipts;
- Distributes supporting documentation to program.

Accounting Generalist I/II position (\$41,184 annually) – duties will include

- Supervise and review the work of Account Clerks who are processing the application fees.

Each application and license would have a fee transaction.

| <b>Transaction</b>         | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> |
|----------------------------|----------------|----------------|----------------|
| Cards for New Applicants   | 0              | 167,814        | 16,781         |
| Cards for Renewals         | 0              | 0              | 151,033        |
| Total Cards Issued         | 0              | 167,814        | 167,814        |
| Accounting Clerk           | 0              | 5.50           | 5.50           |
| Accounting Generalist I/II | 0              | 1.00           | 1.00           |

ASSUMPTION (continued)

Officials from the **DHSS, Office of General Counsel** assume one full-time attorney (Legal Counsel, \$50,000 annually) would be needed to assist in drafting emergency and proposed regulations and forms; perform legal research and provide day-to-day legal counsel to the program. In addition, the attorney would represent the Department in appeals of licensure and identification card denials.

DHSS estimates the net impact to the General Revenue Fund to be a cost of \$520,598 for FY18; and a positive impact of \$334,121 for FY19 and \$1,049,493 for FY20.

**Oversight** will adjust DHSS rental expenses to correspond to the estimated rate per square foot used by the Office of Administration, Division of Facilities Management, Design and Construction. In addition, Oversight assumes DHSS will not hire part-time staff and will have those duties absorbed by existing staff.

In response to legislation from the current session in which additional rental space would be required, officials from the **Office of Administration (OA), Division of Facilities Management, Design and Construction (FMDC)** stated additional space in leased facilities for new staff for agencies in the Cole County area is estimated at 230 sq. ft. per FTE times \$17.50 per sq. ft., or \$4,025 annually per FTE. This cost includes building lease costs, fuel and utilities, and janitorial services. If a larger space were needed, the space was needed in other regions of the state, or newly constructed space if required, the estimated costs would be higher cost per sq. ft. (estimated at \$24.50 per sq. ft.).

DHSS provided the following assumptions from the **Office of Administration (OA), Information Technology Services Division (ITSD)**. ITSD states it is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity

A 12-month project effort with three contractors has been assumed. It is assumed the application will be hosted in the State Data Center (SDC) on existing web application servers. Disk space has been assumed at 50 GB per environment (DEVO, TEST, and PROD). Funding for ongoing maintenance will come from registration fees established by DHSS.

FY18 costs to the General Revenue Fund are estimated to be \$308,736. On-going support costs for FY19 and FY20 are estimated to be \$63,752 and \$65,346 respectively.

**§261.265 - Promulgation of rules**

Officials from the **Department of Public Safety (DPS), Missouri State Highway Patrol (MHP)** state in 261.265.7 it states that the department shall promulgate rules including, but not limited to application requirements for licensing, including requirements for the submission of



ASSUMPTION (continued)

fingerprints and the completion of a criminal background check. However, this section does not specify if a state and federal fingerprint-based criminal background check is required; therefore, the exact cost and fiscal impact to the Criminal Justice Information Services Division (CJIS) is unknown.

Currently, the Department of Agriculture can issue two cultivation facility licenses. To date, it has issued only one license with ten employees per facility; therefore, the anticipated number of criminal background checks to be performed is very minimal.

The cost for a fingerprint-based background check, to include state and federal, open and closed records, is \$40.30. Twenty dollars for the state fingerprint check, \$12 for the federal check, and an \$8.30 charge for the electronic fingerprint option used through a third-party vendor ( $\$20 + 12 + 8.30 = \$40.30$ ). Of this amount, the state retains the \$20 fee and \$2 of the federal charge of \$12 for a pass-thru fee. The \$8.30 charge is paid directly to the vendor at the time of application.

**Oversight** assumes the background check revenue will be minimal and will not present this income to the Criminal Records Fund for fiscal note purposes.

Officials from the **Department of Agriculture (AGR)** assume, for this proposal, that 10 Cultivation and Production Facility licenses are issued, that each facility is inspected monthly, and each inspection will require 20 hours of inspection related duties. Therefore:

10 facilities x 12 inspections per year x 20 hours per inspection = 2,400 hours (1.33 FTE).

Section 261.265.11 provides for fees.

Fees estimated for **FY18** include:

Application Fee =  $20 \times \$1,000 = \$20,000$ .

License Fees =  $10 \times \$1,000 = \$10,000$ .

Testing Fees = 25% of full year testing fees above = \$3,500.

Inspection Fees = 25% of full year inspection fees above = \$45,000.

**Total Fees estimated for FY18 = \$78,500**

Estimated annual fees for **FY19 and beyond** include:

Application Fee =  $1 \text{ application} \times \$1,000 = \$1,000$ .

License Fees =  $10 \text{ facilities} \times \$1,000 = \$10,000$ .

Testing Fees =  $10 \text{ facilities} \times 2 \text{ tests per year} \times \$700 = \$14,000$ .

Inspection Fees =  $10 \text{ facilities} \times 12 \text{ inspections} \times 20 \text{ hours per inspection} \times \$75 \text{ per hour} = \$180,000$ .

**Total Annual Fees estimated for FY19 and beyond = \$205,000 annually**

ASSUMPTION (continued)

The AGR currently has two existing FTE (a Program Coordinator and a Senior Office Support Assistant) that will also be paid for from the fees established in section 261.265 to cover the program's costs. Annual costs for the two existing FTE total approximately \$125,872 annually (personal service \$124,949 + equipment and expense \$923).

The program will require 1 additional field staff for inspections (Feed and Seed Inspector II; \$41,184 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; monthly facility inspections; collecting samples for testing; transporting samples to the laboratory; documentation of the "hemp monitoring system"; and providing location documentation to appropriate authorities.

The AGR estimates costs to the Ag Protection Fund of \$114,144 for FY 18; \$9,291 for FY 19; and \$11,501 for FY 20.

**Oversight** has, for fiscal note purposes only, changed the starting salary for the Feed and Seed Inspector II to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

For fiscal note purposes, **Oversight** will only show the costs associated with the one additional staff person AGR indicated would be needed as a result of this proposal. However, in addition to the new FTE, costs for two existing FTEs will be paid from the fees established in section 261.265 to cover the program's costs.

Bill as a whole

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.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** assume the proposal would not fiscally impact their agency.

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 2018<br>(10 Mo.)       | FY 2019                 | FY 2020                   |
|---|---------------------------|-------------------------|---------------------------|
| <b>GENERAL REVENUE FUND</b>                                 |                           |                         |                           |
| <u>Income - DHSS (\$192.945)</u>                            |                           |                         |                           |
| Application fees  | \$0                       | \$5,873,490             | \$5,873,490               |
| <u>Costs - DHSS (\$192.945)</u>                             |                           |                         |                           |
| Personal service  | (\$111,147)               | (\$2,170,490)           | (\$2,192,195)             |
| Fringe benefits   | (\$54,575)                | (\$1,378,240)           | (\$1,384,704)             |
| Equipment and expense                                       | (\$46,140)                | (\$1,774,505)           | (\$1,033,871)             |
| ITSD costs/on-going support                                 | <u>(\$308,736)</u>        | <u>(\$63,752)</u>       | <u>(\$65,346)</u>         |
| Total <u>Costs - DHSS</u>                                   | <u>(\$520,598)</u>        | <u>(\$5,386,987)</u>    | <u>(\$4,676,116)</u>      |
| FTE Change - DHSS   | 3 FTE                     | 71 FTE                  | 71 FTE                    |
| <b>ESTIMATED NET EFFECT ON THE<br/>GENERAL REVENUE FUND</b> | <b><u>(\$520,598)</u></b> | <b><u>\$486,503</u></b> | <b><u>\$1,197,374</u></b> |
| Estimated Net FTE Effect on the General<br>Revenue Fund     | 3 FTE                     | 71 FTE                  | 71 FTE                    |

| <u>FISCAL IMPACT - State Government</u>                                       | FY 2018<br>(10 Mo.)     | FY 2019                 | FY 2020                 |
|---|-------------------------|-------------------------|-------------------------|
| <b>AGRICULTURE PROTECTION<br/>FUND (#970)</b>                                 |                         |                         |                         |
| <u>Income</u> - AGR (\$261.265)   |                         |                         |                         |
| License and inspection fees   | \$78,500                | \$205,000               | \$205,000               |
| <u>Costs</u> - AGR (\$261.265)  |                         |                         |                         |
| Personal service  | (\$30,770)              | (\$37,293)              | (\$37,666)              |
| Fringe benefits   | (\$17,753)              | (\$21,414)              | (\$21,525)              |
| Equipment and expense   | <u>(\$36,250)</u>       | <u>(\$25,051)</u>       | <u>(\$25,678)</u>       |
| Total <u>Costs</u> - AGR  | <u>(\$84,773)</u>       | <u>(\$83,758)</u>       | <u>(\$84,869)</u>       |
| FTE Change - AGR  | 1 FTE                   | 1 FTE                   | 1 FTE                   |
| <b>ESTIMATED NET EFFECT ON THE<br/>AGRICULTURE PROTECTION<br/>FUND (#970)</b> | <b><u>(\$6,273)</u></b> | <b><u>\$121,242</u></b> | <b><u>\$120,131</u></b> |
| Estimated Net FTE Change on the<br>Agriculture Protection Fund                | 1 FTE                   | 1 FTE                   | 1 FTE                   |
| <br><u>FISCAL IMPACT - Local Government</u>                                   | <br>FY 2018<br>(10 Mo.) | <br>FY 2019             | <br>FY 2020             |
|   | <b><u>\$0</u></b>       | <b><u>\$0</u></b>       | <b><u>\$0</u></b>       |

FISCAL IMPACT - Small Business

§261.265 - The proposed legislation allows the Missouri Department of Agriculture to issue licenses to ten cultivation and production facilities in the state to grow or cultivate the cannabis plant used to make hemp extract. There could be an unknown impact on small businesses that may serve as these facilities.

FISCAL DESCRIPTION

Current law allows people with intractable epilepsy to possess and use hemp extract to treat their condition. This act allows people with serious conditions including but not limited to epilepsy to use hemp extract.

FISCAL DESCRIPTION (continued)

Serious condition is defined as cancer, HIV, AIDS, amyotrophic lateral sclerosis, rheumatoid arthritis, Parkinson's disease, multiple sclerosis, spinal cord damage, epilepsy, inflammatory bowel disease, neuropathies, Huntington's disease, or certain specified symptoms or complications associated with the conditions listed above.

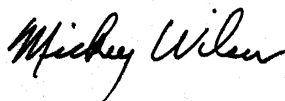
Under current law, the Department must issue a registration card to a person who provides a statement signed by a neurologist that the person suffers from intractable epilepsy and may benefit from treatment with hemp extract. This act provides that the Department must issue a registration card to a person who provides a certification signed by a physician or neurologist that the person suffers from a serious condition and may benefit from treatment with hemp extract, indicates the practitioner is qualified to treat the condition, and states that the individual is under the practitioner's continuing care.

This act creates certain background check and residency requirements for prospective producers of cannabis to be used in the production of hemp extract. The residency requirements contain a grandfather clause. A maximum of ten licenses may be issued for the cultivation of cannabis to be used in the production of hemp extract.

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

SOURCES OF INFORMATION

Department of Agriculture  
Department of Health and Senior Services  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Public Safety -  
    Missouri State Highway Patrol  
Joint Committee on Administrative Rules  
Office of Secretary of State



Mickey Wilson, CPA  
Director  
February 17, 2017

Ross Strobe  
Assistant Director  
February 17, 2017

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