

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3136-04
Bill No.: SCS for SB 764
Subject: Business and Commerce; Children and Minors; Drugs and Controlled Substances; Health Care; Health Care Professionals; Health and Senior Services Department; Highway Patrol; Medical Procedures and Personnel; Physicians
Type: Original
Date: March 5, 2020

Bill Summary: This proposal modifies provisions relating to medical marijuana.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
MO Vet Health and Care Fund (0606)	(\$88,000)	(\$12,000 to \$90,794)	(\$12,000 to \$84,214)
Criminal Record System (0671)	\$76,560	\$43,472 to \$85,800	\$43,472 to \$85,800
Total Estimated Net Effect on Other State Funds	(\$11,440)	\$31,472 to (\$4,994)	\$31,472 to (\$4,994)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Vet Health and Care	0 FTE	0 to1 FTE	0 to1 FTE
Total Estimated Net Effect on FTE	0 FTE	0 to1 FTE	0 to1 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 2021	FY 2022	FY 2023
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

§195.805 - No marketing of medical marijuana products that appeal to persons under 18 years of age

Officials from the **Department of Health and Senior Services (DHSS)** state §195.805.1 and .2 prohibits edible marijuana-infused products sold in Missouri to be designed, produced, or marketed in a manner that is designed to appeal to persons under 18 years of age. It provides for enforcement actions on the part of the DHSS. The department expects to absorb these costs in the normal ebb and flow of its operations. However, until the FY21 budget is final, the department cannot identify specific funding sources.

Oversight does not have any information to the contrary. Oversight assumes the DHSS has sufficient staff and resources to perform the additional work required by this proposal and will reflect no fiscal impact for the DHSS for fiscal note purposes.

Oversight notes provisions of §195.805.2 provides for departmental sanctions, including administrative penalties, for any licensed or certified entity regulated by the Department of Health and Senior Services that designs, produces, or markets medical marijuana products that would appeal to persons under eighteen years of age. Administrative penalties are distributed to school districts based on the location of the entity receiving the penalty. It is unknown whether penalties will be imposed or how much in penalties may be distributed to school districts. Therefore, Oversight will present penalties to school districts as \$0 to Unknown, for fiscal note purposes.

DHSS states §195.805.3 requires the DRL, Section for Medical Marijuana Regulation (SMMR) to promulgate new rules and regulations regarding edible marijuana-infused products as well as promulgate rules and regulations to establish a process by which a licensed or certified entity may seek approval of an edible product design, package, or label prior to the product's manufacture or sale.

This will require SMMR to establish a process by which a medical marijuana facility may seek pre-approval for its edible product design, package, or label. It is unknown the number of pre-approval requests that will be required from facilities. Research of other states indicates the volume of pre-approval requests is highly unpredictable; however, the volume is enough to require additional staff. Therefore, the number of staff needed is unknown up to one additional Health Program Representative II (salary of \$40,000) to provide public assistance and processing of applications for pre-approval who would be hired in July 2021.

ASSUMPTION (continued)

In addition, the Medical Marijuana program has a contract for Information Technology (IT) systems in place for processing applications and tracking program activities. It is assumed a similar contract for processing facility preapproval product and packaging design applications and enhancements will be required for the activities under this legislation at a cost of \$88,000 for FY2021 and \$12,000 each year thereafter.

DHSS anticipates costs to the Missouri Veterans Health and Care Fund of \$88,000 for FY 2021; \$12,000 to \$95,038 for FY 2022; and \$12,000 to \$88,564 for FY 2023.

Oversight notes DHSS assumes it will need a total of 0 to 1 new FTE as a result of the provisions of this proposal. Oversight assumes the additional FTE can be housed within current DHSS locations. However, if multiple proposals pass during the legislative session requiring additional FTE, cumulatively the effect of all proposals passed may result in the DHSS needing additional rental space.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a range for the costs provided by DHSS, less rental space costs, for fiscal note purposes.

§195.810 - Electronic submission of physician certifications

Oversight notes the **Department of Commerce and Insurance**, the **Department of Health and Senior Services (DHSS)** and the **Department of Social Services** state the proposal would not have a direct fiscal impact on their 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 contacted DHSS officials and determined they already have a web-based system in place for the physician certifications. Therefore, no fiscal impact is anticipated by the DHSS.

§195.830 - Medical marijuana industry background checks

Officials from the **Department of Public Safety (DPS)**, **Missouri State Highway Patrol (MHP)** state the Missouri Department of Health and Senior Services (DHSS) notes there are 348 medical marijuana “facilities” and assumes each facility will request background checks on 10 employees. DHSS has the ability to conduct the state fingerprint portion of the employee background check requirement pursuant to the Missouri Constitution Article XIV. This legislation, if enacted and approved by the Federal Bureau of Investigation (FBI) Criminal Justice Information Law Unit (CJILU), would authorize the federal fingerprint portion of the employee

ASSUMPTION (continued)

background check requirement. With the estimation of 348 facilities conducting background checks on 10 employees, it is assume that \$6,960 will be deposited into the Criminal Record System Fund which includes a \$2.00 FBI fee (CJISD retains \$2.00 of the FBI fee).

348 medical marijuana facilities x 10 employees per facility = 3,480 employees

3,480 employees x \$2.00 CJISD retains from FBI fee = \$6,960

The state fee for a fingerprint based criminal record check is \$20.00 per request. The federal fee for a fingerprint based criminal record check is \$13.25 per request, of which, the CJIS Division retains \$2.00. This equates to \$22 of the total state and federal fingerprint background check fee that is retained in the Criminal Record System Fund per request.

State and Federal Fingerprint Fee Schedule

State Fee = \$20.00

Federal Fee = \$13.25

Total State and Federal fee = \$33.25

Vendor Fee (if applicable) = \$8.50

Total State and Federal with Vendor fee = \$41.75

Total Retained in the Criminal Record System (CRS) Fund = \$22.00

Oversight obtained additional information from the Department of Health and Senior Services (DHSS) regarding the number of background checks that could be required as a result of this legislation. DHSS notes there are 348 medical marijuana “facilities” and assumes each facility will request background checks on 10 employees. Therefore, Oversight assumes \$76,560 (348 facilities x 10 employees x \$22/background check) will be deposited into the Criminal Record System Fund for FY 21.

Based on DHSS’ analysis, it is expected the DHSS will receive 38 to 75 background check requests per week once the industry is up and running. Therefore, for fiscal note purposes, **Oversight** will present an impact to the Criminal Records System Fund of \$43,472 (38 checks/week x 52 weeks x \$22 fee retained in CRS Fund) to \$85,800 (75 checks/week x 52 weeks x \$22 fee retained in CRS Fund) for FY 22 and FY 23.

Oversight notes, the **Department of Health and Senior Services** stated the proposal would not have a direct 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 this organization.

ASSUMPTION (continued)

Bill as a whole

Oversight notes the **Department of Commerce and Insurance** has stated the proposal would not have a direct 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 this organization.

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.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
MO VET HEALTH AND CARE FUND (0606)			
<u>Costs - DHSS (\$195.805)</u>	\$0 to...	\$0 to...	\$0 to...
Personal service	\$0	(\$40,400)	(\$40,804)
Fringe benefits	\$0	(\$25,071)	(\$25,071)
Equipment and expense	\$0	(\$13,457)	(\$6,339)
Total <u>Costs - DHSS</u>	<u>\$0</u>	<u>(\$78,928)</u>	<u>(\$72,214)</u>
FTE Change - DHSS	0 FTE	0 to 1 FTE	0 to 1 FTE
 <u>Costs - DHSS (\$195.805) - IT contract costs</u>	 <u>(\$88,000)</u>	 <u>(\$12,000)</u>	 <u>(\$12,000)</u>
 ESTIMATED NET EFFECT ON THE MO VET HEALTH AND CARE FUND	 <u>(\$88,000)</u>	 <u>(\$12,000 to \$90,794)</u>	 <u>(\$12,000 to \$84,214)</u>
 CRIMINAL RECORD SYSTEM FUND (0671)			
<u>Income - DPS, MHP (\$195.830) - Increase in background check fees</u>	<u>\$76,560</u>	<u>\$43,472 to \$85,800</u>	<u>\$43,472 to \$85,800</u>
 ESTIMATED NET EFFECT ON THE CRIMINAL RECORD SYSTEM FUND	 <u>\$76,560</u>	 <u>\$43,472 to \$85,800</u>	 <u>\$43,472 to \$85,800</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2021 (10 Mo.)	FY 2022	FY 2023
SCHOOL DISTRICTS			
<u>Income - School Districts (\$195.805) - Penalty income</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
 ESTIMATED NET EFFECT ON SCHOOL DISTRICTS	 <u>\$0 to Unknown</u>	 <u>\$0 to Unknown</u>	 <u>\$0 to Unknown</u>

FISCAL IMPACT - Small Business

This proposal may impact small business that make or sell medical marijuana products. (§195.805)

This proposal will negatively impact small businesses in the medical marijuana industry if they pay the background check fees for potential employees. (§195.815)

FISCAL DESCRIPTION

This act prohibits the sale of edible marijuana-infused products that are designed, produced, or marketed in a manner to appeal to persons under 18 years of age, including candies, gummies, lollipops, cotton candy, or products in the shape of a human, animal, or fruit. Each individually wrapped edible marijuana-infused product containing any amount of tetrahydrocannabinols (THC) shall be stamped or the package or wrapping otherwise labeled with a diamond containing the letters "THC" and the number of milligrams of THC in that individually wrapped product.

Any medical marijuana licensed or certified entity regulated by the Department of Health and Senior Services found to have violated this act shall be subject to sanctions, including an administrative penalty. The Department shall develop a process by which a licensed or certified entity may seek approval of a product design, package, or label prior to manufacture or sale to determine compliance with these provisions. (§195.805)

Under this act, the Department of Health and Senior Services shall require all officers, managers, contractors, employees, and other support staff of licensed or certified medical marijuana facilities, and all owners of such facilities who will have access to the facilities or the facilities' supply of medical marijuana, to submit fingerprints to the Highway Patrol for a state and federal criminal background check. The Highway Patrol shall notify the Department of any criminal history record information or lack thereof discovered on the individual. All such records shall be accessible and available to the Department. (§195.830)

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 Commerce and Insurance
Department of Health and Senior Services
Department of Public Safety -
 Missouri State Highway Patrol
Department of Social Services
Joint Committee on Administrative Rules
Office of Secretary of State



Julie Morff
Director
March 5, 2020



Ross Strobe
Assistant Director
March 5, 2020