

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4303-07
Bill No.: SS for SCS for HCS #2 for HB 1896 with SA 1 and SA 2 A.A.
Subject: Crimes and Punishment; Drugs and Controlled Substances; Health and Senior Services Department; Highway Patrol
Type: Original
Date: May 7, 2020

Bill Summary: This proposal modifies provisions relating to controlled substances.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
General Revenue	(Less than \$100,000 to \$195,790)	(Less than \$100,000 to \$327,980)	(Less than \$100,000 to \$458,776)	(Less than \$100,000 to \$989,870)
Total Estimated Net Effect on General Revenue	(Less than \$100,000 to \$195,790)	(Less than \$100,000 to \$327,980)	(Less than \$100,000 to \$458,776)	(Less than \$100,000 to \$989,870)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
MO Vet Health and Care Fund (0606)	(\$88,000)	(\$12,000 to \$90,794)	(\$12,000 to \$84,214)	(\$12,000 to \$89,329)
Criminal Record System (0671)	\$76,560	\$43,472 to \$85,800	\$43,472 to \$85,800	\$43,472 to \$85,800
Total Estimated Net Effect on <u>Other</u> State Funds	(\$11,440)	(\$4,994) to \$31,472	\$1,586 to \$31,472	(\$3,529) to \$31,472

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
General Revenue	0 FTE	0 FTE	0 FTE	0 to 2 FTE
Veterans Health and Care	0 FTE	0 to 1 FTE	0 to 1 FTE	0 to 1 FTE
Total Estimated Net Effect on FTE	0 FTE	0 to 1 FTE	0 to 1 FTE	0 to 3 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	Fully Implemented (FY 2030)
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§§195.015 and 195.017 - Emergency rules

Officials from the **Department of Health and Senior Services (DHSS)** state §195.015.4 of this proposed legislation requires the Division of Regulation and Licensure (DRL), Section for Health Standards and Licensure, Bureau of Narcotics and Dangerous Drugs (BNDD) to promulgate emergency rules within 30 days of publication in the federal register each time the Drug Enforcement Administration (DEA) designates a substance as a controlled substance or reschedules or deletes a substance. The DEA makes such changes an average of 20 times annually.

It is assumed it will take a Health and Senior Services Manager (salary \$68,802) approximately 16 hours to promulgate each emergency rule change. Based on 2,080 working hours per year, this would require 0.15 FTE to assume the duties set forth in the proposed section (16 hours X 20 rule changes ÷ 2,080 hours per year = 0.15) for a total personal service annual cost of \$10,320 (\$68,802 X 0.15).

The department anticipates being able to absorb these costs. However, until the FY21 budget is final, the department cannot identify specific funding sources.

Oversight obtained information from the U.S. Department of Justice, Drug Enforcement Administration (DEA), Diversion Control Division. Oversight determined that in the past 5 years (2015 - 2019), the DEA has taken scheduling actions on substances/controlled substances 91 times (average 18.2 actions per year). Based on this information the DHSS would need 0.15 FTE (16 hours X 19 rule changes ÷ 2,080 hours = 0.15, rounded) to manage the DEA's average annual change in substance/controlled substance schedules. Oversight assumes the additional duties can be performed within DHSS' current funding/staffing levels.

ASSUMPTION (continued)

Senate Amendment 2, as amended (§195.417 and 579.060) - Limits on ephedrine, phenylpropanolamine or pseudoephedrine

Oversight notes the provisions of this amendment, as amended, will have no fiscal impact.

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

DHSS states §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 §195.805.3 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 also stated §195.805.4 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.

Senate Amendment 1

Oversight notes Senate Amendment 1 will have no fiscal impact.

§195.815 - 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 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 background check requirement. With the estimated of 348 facilities conducting background checks on 10 employees, it is assumed that \$6,960 will be deposited into Criminal Record System Fund for FY 21. Estimation breakdown includes \$2 FBI fee retained by CJISD.

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

3,480 employees x \$2 FBI fee retained = \$6,960.

ASSUMPTION (continued)

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 of the federal fee. This equates to \$22.00 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.

§§579.065 - 579.068 - Fentanyl or carfentanyl trafficking charges

Officials from the **Department of Corrections (DOC)** state §§579.065 and 579.068 add felony classes A and B for these drugs (fentanyl or carfentanyl) if they are charged under trafficking 1st degree, depending upon quantity of drugs involved and first or subsequent offense. Similarly, it adds them to felony B and C, if the offense is charged under trafficking 2nd degree. The DOC is expecting that the average sentence length and average first releases from prison, as well as parole and probation sentences, will remain the same for these new offenders, however, the number may increase because of the addition of new drugs under this legislation.

In FY2019, there were seven new admissions under charges of 1st degree drug trafficking class A felony, with 12.5 years of average sentence, and 7.2 years average time for first release, 4 new probations with average term of 5 years. For 1st degree class B felony, there were six new admissions with an average sentence of 8.7 years and four new probations with average term of 5 years.

ASSUMPTION (continued)

For 2nd degree drug trafficking felony class A, there were five new admissions with an average sentence of 10.7 years, 6.7 years to first release and 5 new probations with 4.2 years average probation term. For class B felony, there were 30 new admissions, 9.7 years average sentence, 2.8 years to first release and 6 new probations with 4.7 years average term.

For 2nd degree drug trafficking class C felony, there were 11 new admissions with 7.2 years average sentence length, 1.3 years to first release, and 14 new probations with 3.8 years average term length.

Estimating that the changes in the bill result in the same number of new admissions and probations, the DOC will see no new impact by this new change. However, if the DOC assumes an increase of at least 30% new admissions and probations, based on the addition of these new drugs to the list, and assuming same sentence lengths, the likely impact will be approximately 96 new prison admissions and 109 additional field population by FY2030.

In December 2019, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2020 fiscal notes. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 44 probation and parole districts.

The DOC cost of incarceration is \$17.496 per day or an annual cost of \$6,386 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

ASSUMPTION (continued)

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total costs for probation and parole	# to Probation and Parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	18	(\$6,386)	(\$95,790)	0	\$0	10	(\$95,790)
Year 2	35	(\$6,386)	(\$227,980)	0	\$0	20	(\$227,980)
Year 3	54	(\$6,386)	(\$358,776)	0	\$0	30	(\$358,776)
Year 4	69	(\$6,386)	(\$467,604)	0	\$0	41	(\$467,604)
Year 5	82	(\$6,386)	(\$566,818)	0	\$0	50	(\$566,818)
Year 6	87	(\$6,386)	(\$613,407)	1	(\$79,528)	62	(\$692,935)
Year 7	91	(\$6,386)	(\$654,442)	1	(\$71,083)	76	(\$725,526)
Year 8	94	(\$6,386)	(\$689,538)	1	(\$71,854)	87	(\$761,392)
Year 9	96	(\$6,386)	(\$718,293)	1	(\$72,635)	100	(\$790,928)
Year 10	96	(\$6,386)	(\$732,659)	2	(\$157,212)	109	(\$889,870)

Oversight does not have any information to the contrary. For fiscal note purposes, Oversight will range DOC's estimated costs from \$0 (same number of new admissions) to the amount provided (30% increase in admissions and probations).

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 arising where indigent persons are charged with the proposed new crime of trafficking fentanyl, or gamma-hydroxybutyric acid, or flunitrazepam. 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.

In Fiscal Year 2019, SPD's Trial Division opened 193 Trafficking drug cases:

PCCHARGES	CASES
579.065 - Trafficking Drugs 1st Degree	55
579.068 - Trafficking Drugs 2nd Degree	138
	193

ASSUMPTION (continued)

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.

Bill as a whole

Oversight notes the **Missouri Office of Prosecution Services** states the proposal, as amended, would not have a measurable 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.

In response to the previous version of this proposal, officials from the **St. Louis County Police Department** stated the police department does not anticipate any significant costs associated with this legislation. 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 Commerce and Insurance**, the **City of Columbia**, the **City of Kansas City** and the **St. Louis County Police Department** have stated 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 notes, in response to the previous version of this proposal, the **Office of State Courts Administrator** and the **St. Louis County Department of Justice Services** stated 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.

ASSUMPTION (continued)

Oversight notes, in response to similar legislation (SB 523), the **Springfield Police Department** 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, as amended, 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.

In response to similar legislation (Perfected SS #2 SCS SB 523), officials from the **Office of the Secretary of State (SOS)** stated 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.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties, sheriffs' departments and police departments 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 -</u> <u>State Government</u>	FY 2021 (10 Mo.)	FY 2022	(FY 2023)	Fully Implemented (FY 2030)
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**GENERAL
REVENUE FUND**

Costs - DOC
 (§§579.065 -
 579.068) p. 8

Increase in incarceration costs	\$0 to (\$95,790)	\$0 to (\$227,980)	\$0 to (\$358,776)	\$0 to (\$732,659)
Personal service	\$0	\$0	\$0	\$0 to (\$84,766)
Fringe benefits	\$0	\$0	\$0	\$0 to (\$53,415)
Equipment and expense	\$0	\$0	\$0	\$0 to (\$19,031)
<u>Total Costs - DOC</u>	<u>\$0 to (\$95,790)</u>	<u>\$0 to (\$227,980)</u>	<u>\$0 to (\$358,776)</u>	<u>\$0 to (\$889,870)</u>
FTE Change - DOC	0 FTE	0 FTE	0 FTE	0 to 2 FTE

Costs - SPD
 (§§579.065 -
 579.068) - Personal
 service, fringe
 benefits and
 equipment and
 expense p. 9

	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
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**ESTIMATED NET
EFFECT ON THE
GENERAL
REVENUE FUND**

	<u>(Less than \$100,000 to \$195,790)</u>	<u>(Less than \$100,000 to \$327,980)</u>	<u>(Less than \$100,000 to \$458,776)</u>	<u>(Less than \$100,000 to \$989,870)</u>
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Estimated Net FTE
 Change on the
 General Revenue
 Fund

	0 FTE	0 FTE	0 FTE	0 to 2 FTE
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<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2021 (10 Mo.)	FY 2022	(FY 2023)	Fully Implemented (FY 2030)
MO VETERANS HEALTH AND CARE FUND (0606)				
<u>Costs - DHSS</u> (\$195.805) p. 4 & 5	\$0 to...	\$0 to...	\$0 to...	\$0 to...
Personal service	\$0	(\$40,400)	(\$40,804)	(\$43,747)
Fringe benefits	\$0	(\$24,937)	(\$25,071)	(\$26,048)
Equipment and expense	<u>\$0</u>	<u>(\$13,457)</u>	<u>(\$6,339)</u>	<u>(\$7,534)</u>
Total <u>Costs - DHSS</u>	<u>\$0</u>	<u>(\$78,794)</u>	<u>(\$72,214)</u>	<u>(\$77,329)</u>
FTE Change - DHSS	0 FTE	0 to 1 FTE	0 to 1 FTE	0 to 1 FTE
<u>Costs - DHSS</u> (\$195.805) - IT contract costs p. 4 & 5	<u>(\$88,000)</u>	<u>(\$12,000)</u>	<u>(\$12,000)</u>	<u>(\$12,000)</u>
ESTIMATED NET EFFECT ON THE MO VETERANS HEALTH AND CARE FUND	<u>(\$88,000)</u>	<u>(\$12,000 to \$90,794)</u>	<u>(\$12,000 to \$84,214)</u>	<u>(\$12,000 to \$89,329)</u>
Estimated Net FTE Change on the MO Veterans Health and Care Fund	0 FTE	0 to 1 FTE	0 to 1 FTE	0 to 1 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	(FY 2023)	Fully Implemented (FY 2030)
CRIMINAL RECORD SYSTEM FUND (0671)				
<u>Income - DPS, MHP (\$195.815) - Increase in background check fees p. 6</u>	<u>\$76,560</u>	<u>\$43,472 to \$85,800</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>\$43,472 to \$85,800</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2030)
SCHOOL DISTRICTS				
<u>Income - School Districts (\$195.805) - Penalty income p. 4</u>	<u>\$0 to Unknown</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>	<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. (§195.830)

FISCAL DESCRIPTION

This act modifies several provisions relating to controlled substances, including: (1) the schedules of controlled substances; (2) prescriptions for pseudoephedrine and related drugs; (3) medical marijuana edibles; and (3) drug trafficking.

SCHEDULES OF CONTROLLED SUBSTANCES (§§ 195.015 and 195.017)

Under this act, if a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the Department of Health and Senior Services shall promulgate emergency rules to implement such change within 30 days of publication of the change in the Federal Register, unless the Department objects to such change. If the Department promulgates emergency rules under this act, the rules may remain in effect until the legislature concludes its next regular session following the imposition of the rules.

Additionally, this act updates the schedules of controlled substances in Missouri to mirror the most recent update to the schedules in 19 CFR 30-1.002 and further updates by the Drug Enforcement Agency in the Federal Register.

PRESCRIPTIONS FOR PSEUDOEPHEDRINE AND RELATED DRUGS (§§195.417 and 579.060) (with SA 2, as amended)

This act prohibits the requirement of a prescription for the dispensation, sale, or distribution of any drug containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, in an amount within the limits set forth in law. A prescription shall be required for such drug in excess of the statutory limits. This provision shall not apply in any calendar year in which the state's methamphetamine laboratory seizure incidents, as reported by the Missouri State Highway Patrol, exceed 300 incidents for the most recent calendar year for which such data is reported and made publicly available.

This act also changes the amounts that can be sold, dispensed, or otherwise provided to a person in a 30-day period without a prescription from a maximum of 9 grams to a maximum of 7.2 grams.

MEDICAL MARIJUANA EDIBLES (§195.805)

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.

FISCAL DESCRIPTION (continued)

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.

SUBMISSION OF FINGERPRINTS (§195.830)

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.

DRUG TRAFFICKING (§§579.065 and 579.068)

This act adds to the offense of trafficking drugs in the first degree knowingly distributing, delivering, manufacturing, or producing or attempting to distribute, deliver, manufacture, or produce more than 10 milligrams of fentanyl or any derivative thereof, or any mixture or substance containing more than 10 milligrams of fentanyl or carfentanil, as a Class B felony and a Class A felony when the amount is 20 milligrams or more. Additionally, trafficking in the first degree of one or more grams of flunitrazepam or any amount of gamma-hydroxybutyric acid for the first offense shall be a Class B felony and a Class A felony for any second or subsequent offense.

This act adds to the offense of trafficking drugs in the second degree knowingly possessing or having under one's control, purchasing or attempting to purchase, or bringing into the state more than 10 milligrams of fentanyl or any derivative thereof, or any mixture or substance containing a detectable amount of fentanyl or carfentanil as a Class C felony and a Class B felony when the amount is 20 milligrams or more. Additionally, trafficking in the second degree of less than one gram of flunitrazepam shall be a Class C felony for the first offense and a Class B felony for any second or subsequent offense.

Finally, this act modifies current law for the Class B felony offense of trafficking of drugs in the first degree and the Class C felony offense of trafficking drugs in the second degree by removing the ceiling of the ranges of grams or milligrams of various controlled substances, including heroin, cocaine, LSD, PCP, phencyclidine, marijuana, and amphetamines and methamphetamines.

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 Corrections
Department of Public Safety -
 Missouri State Highway Patrol
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 Columbia
City of Kansas City
St. Louis County Department of Justice Services
St. Louis County Police Department
Springfield Police Department



Julie Morff
Director
May 7, 2020



Ross Strope
Assistant Director
May 7, 2020