

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0179-01  
Bill No.: HB 83  
Subject: Agriculture; Agriculture, Department of; Crimes and Punishment  
Type: Original  
Date: January 19, 2017

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2023)
General Revenue	(\$60,000)	(\$3,051)	(\$814)	\$6,451
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$60,000)</b>	<b>(\$3,051)</b>	<b>(\$814)</b>	<b>\$6,451</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2023)
Agriculture Protection	(\$13,699)	(\$4,150)	(\$5,176)	(\$6,218)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$13,699)</b>	<b>(\$4,150)</b>	<b>(\$5,176)</b>	<b>(\$6,218)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2023)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2023)
Agriculture Protection Fund	1 FTE	1 FTE	1 FTE	1 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>	<b>1 FTE</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.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2023)
<b>Local Government</b>	<b>(Greater than \$33,769)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Public Safety - Highway Patrol** assume this proposal could have a negative fiscal impact on their organization.

**§195.603** Based off of information obtained from the state of Oregon, the Missouri Department of Agriculture has indicated that 15 applicants may apply for licensure under this authority. Due to the limited number of potential applicants that would undergo a state and federal fingerprint-based background check with the passage of this legislation, there would be a minimal fiscal impact to the Criminal Justice Information Services Division (CJIS) of the Highway Patrol.

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. Therefore, the amount deposited into the Criminal Records fund would be \$330 ( $15 \times \$22$ )

**Oversight** will not show a fiscal impact to the Criminal Records fund for a total of \$150 each fiscal year for the cost of the federal background check nor the \$480 in revenue per fiscal year for background checks because the net positive impact of \$330 each fiscal year is not material.

**§195.603.5** The Highway Patrol would develop an interface between the Highway Patrol and the Department of Agriculture to receive the 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 Highway 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 ( $600 \times \$100$ ) 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

In addition, the Patrol estimates an annual maintenance cost of \$5,200.

ASSUMPTION (continued)

Officials at the **Department of Corrections (DOC)** assume this proposal will have a positive fiscal impact on their organization based on the following information.

In FY16, the number of new admissions for cannabis production (NCIC code 3563) totals 14 persons to probation and 2 persons to adult institutions with a class B felony. It is unknown how many of these 16 offenders were cultivating industrial hemp (varieties of Cannabis sativa with less than 0.3% THC concentration). It is estimated that decriminalizing and legalizing the growing of industrial hemp will decrease incarceration and probation by 10% per year; this equates to a total decrease of one person on probation and no change to incarceration. The average time served in probation in FY2016 for a class B felony is approximately five years (as per Mo. charge code 32465). The full impact of Fiscal Note # 0179.01 occurs in FY23 with 5 fewer offenders on probation supervised by DOC.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

If this impact statement has changed from statements submitted in previous years, it is because the department's Budget and Research Section reviewed the way responses had been submitted and has developed a more precise way to calculate the impact. In previous year's responses, the full impact of recidivism for parole releases was not adequately calculated. Now we have been able to quantify the fact that some parolees are returned to prison after release and that has been added into the calculation of the impact. The total number of offenders has not changed but there is an assumption that they will spend more time back in prison rather than being on community supervision, which will increase the amount of the impacts.

Therefore, the impact to DOC for FY18 will be reflected as \$0, for FY19 reflected as a reduction in costs of \$2,279, for FY20 reflected as a reduction in costs of \$4,649, and fully implement in FY23 for a reduction in costs of \$12,333.

Officials at the **Department of Agriculture (AGR)** assume this proposal will have a negative impact on their organization based on the following information.

The fee structure is based upon figures from the Oregon Department of Agriculture, which recently implemented an industrial hemp program, adjusted to meet estimated program costs.

Costs are based on the assumptions there would be 15 licenses/permits issued.

ASSUMPTION (continued)

**§195.603.10** provides for inspection and testing.

**§195.603.11** allows reasonable fees for license and permit applications. Fees include:  
License/permit fees  $\$300 * 15 = \$4,500$ .

**§195.603.11** allows reasonable inspection fees. Fees include:  
Estimated cost of 3 site inspections per year @ 8 hours per inspection \* 3 inspections = 24 total hours per site \* 15 sites @ \$174.50 per hour = \$62,820.

Lab tests  $\$700 * 15 = \$10,500$ .

Total fees estimated: \$77,820.

Program will require one field staff for inspections at range/step A22 Step J. Duties will include but are not limited to: application review; verification of application information; travel to field locations; performing inspections of sites for verification; inspecting immediately after planting, during growing season and after harvest/destruction; collecting samples for testing; transporting samples to the laboratory; documentation of the “hemp monitoring system”; and providing location documentation to appropriate authorities.

**Oversight** will show a fiscal impact to the Agriculture Protection Fund for costs related to an additional staff person, equipment and expenses net anticipated revenue for license and permit applications, inspection fees, and lab tests.

In response to a similar proposal from this session (HB 170) officials at the **St. Louis County Police Department** assumed the proposal would have a negative fiscal impact to their organization based on the following information.

If this bill passed and allowed those licensed by the Department of Agriculture to grow, harvest and cultivate industrial hemp, St. Louis County would want to pro-actively train all officers.

Officers would need to be trained over the new laws and regulations regarding industrial hemp, as well as the protocols on how to handle those types of cases. Officers would also need to be trained to identify industrial hemp in order to make sure they could correctly identify it in comparison to other substances. For this training, we anticipate a one hour training course for all officers employed by St. Louis County Police Department.

At 890 commissioned police officers, it would cost approximately \$100 to develop a training course, plus require approximately 45 classes to retrain all officers at the CMPA. Officers average 37.78 an hour, and if 20 attend each course, the total training costs would be (for a one hour course):  $\$100 + (45*20*37.41*1) = \$33,769$ .

ASSUMPTION (continued)

**Oversight** will show a negative fiscal impact to local government for FY18 as greater than \$33,769, to account for St. Louis County Police Department and any other local law enforcement agencies that may incur additional costs in training their officers.

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 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.

Officials at the **Attorney General's Office, Department of Health and Senior Services, Department of Mental Health, Joint Committee on Administrative Rules, Office of State Courts Administrator, and State Public Defender's Office** each assume this proposal will not have a fiscal impact on their respective organizations.

In response to a similar proposal from this session (HB 170) Officials at the **Springfield Police Department** assumed the proposal would not have a fiscal impact on their organization.

In response to a similar proposal from this session (HB 170) Officials at the **Cole County Sheriff's Office** assumed the proposal would not have a fiscal impact on their organization.

In response to a similar proposal from this session (HB 170) Officials at the **St. Louis County Justice Services** assumed the proposal would not have a fiscal impact on their organization.

In response to a similar proposal from this session (HB 170) Officials at the **University of Missouri** assumed the proposal would not have a fiscal impact on their organization.

**This proposal could increase Total State Revenue.**

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2023)
<b>GENERAL REVENUE</b>				
<u>Costs - DPS-HWY Patrol</u>				
Consultant Fee	(\$60,000)	\$0	\$0	\$0
Maintenance Fee	<u>\$0</u>	<u>(\$5,330)</u>	<u>(\$5,463)</u>	<u>(\$5,882)</u>
Total Costs - DPS-HWY Patrol	(\$60,000)	(\$5,330)	(\$5,463)	(\$5,882)
<u>Costs Reduction - DOC</u>				
Incarceration and Probation	<u>\$0</u>	<u>\$2,279</u>	<u>\$4,649</u>	<u>\$12,333</u>
Total Costs Reduction - DOC	<u>\$0</u>	<u>\$2,279</u>	<u>\$4,649</u>	<u>\$12,333</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$60,000)</u></b>	<b><u>(\$3,051)</u></b>	<b><u>(\$814)</u></b>	<b><u>\$6,451</u></b>
<b>AG PROTECTION FUND</b>				
Income - AGR - license and inspection	\$77,820	\$77,820	\$77,820	\$77,820
<u>Costs - AGR</u>				
Personal Service (1 FTE)	(\$32,500)	(\$39,390)	(\$39,784)	(\$40,182)
Fringe Benefits	(\$18,269)	(\$22,038)	(\$22,156)	(\$22,274)
Expense & Equipment	<u>(\$40,750)</u>	<u>(\$20,542)</u>	<u>(\$21,056)</u>	<u>(\$21,582)</u>
Total Costs - AGR	<u>(\$91,519)</u>	<u>(\$81,970)</u>	<u>(\$82,996)</u>	<u>(\$84,038)</u>
FTE Change - AGR	1 FTE	1 FTE	1 FTE	1 FTE
<b>ESTIMATED NET EFFECT TO THE AG PROTECTION FUND</b>	<b><u>(\$13,699)</u></b>	<b><u>(\$4,150)</u></b>	<b><u>(\$5,176)</u></b>	<b><u>(\$6,218)</u></b>
Net FTE Change - AGR	1 FTE	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2023)
<b>LOCAL GOVERNMENT</b>				
<u>Costs - Local Law Enforcement</u>				
	(Greater than			
Training	<u>\$33,769</u> )	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Total Costs - Local Law Enforcement	(Greater than			
	<u>\$33,769</u> )	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT TO LOCAL GOVERNMENT</b>	<b>(Greater than</b>			
	<b><u>\$33,769</u>)</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

#### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

#### FISCAL DESCRIPTION

This bill exempts industrial hemp, which is defined as *Cannabis sativa* L. containing no greater than .3% THC, from the definition of marijuana and the list of controlled substances. The bill specifies that it is now legal to grow, harvest, and cultivate industrial hemp in accordance with specific federal and state rules and regulations. However, the growing, harvesting and cultivating of industrial hemp is not protected by the constitutional Right to Farm.

The Department of Agriculture must establish a committee by September, 30, 2017, to advise the department on appropriate rules regarding industrial hemp, including rules governing licenses and permits to grow and cultivate industrial hemp. All rules and regulations must meet the requirements of Section 7606 of the Agricultural Act of 2014. The department must promulgate rules by March 30, 2018.

The committee is to be administered and appointed by the director of the department, but must include representatives from the department, the agricultural programs at the University of Missouri-Columbia and Lincoln University, the Governor's Office, the Missouri State Highway Patrol, the Missouri Sheriffs Association, and associations advocating for farmers and industrial hemp, and the Missouri Crop Improvement Association. The committee is dissolved on April 1, 2018, but may be reconvened by the department as needed to assist in rulemaking.

The bill prohibits a license or permit to grow or cultivate industrial hemp from being issued to a person who has been found guilty of a felony offense within five years or a person who, at any time, has been found guilty of a felony offense under state or federal law regarding the



### FISCAL DESCRIPTION (continued)

possession, distribution, manufacturing, cultivation, or use of a controlled substance. Upon issuance of a license or permit, information regarding all license and permit holders must be forwarded to the Highway Patrol.

A license or permit to grow or cultivate industrial hemp is nontransferable, except to a spouse or child, who otherwise meets the requirements for a license or permit; is valid for a three-year term; and may be renewed as determined by the department. The department can inspect any industrial hemp crop and take a representative sample for field analysis. If the crop contains an average THC level exceeding the .3% limit, the department must detain, seize, or embargo the crop.

The department must charge growers and handlers reasonable fees. The department is also allowed to revoke or refuse to issue or renew a license or permit to grow or cultivate industrial hemp 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, any plant 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. 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 the department's rules regarding agricultural operations or activities other than industrial hemp growing or handling.

A person who grows industrial hemp without a license is subject to an administrative fine of \$500 and must obtain a license within 30 days. If the person obtains a license within 30 days, the fine is refunded. If the person fails to obtain a license, the person is fined \$1,000 per day until the person obtains a license or the crop is destroyed.

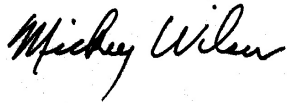
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Department of Public Safety - Highway Patrol  
Department of Corrections  
Department of Agriculture  
St. Louis County Police Department  
Office of Secretary of State  
Attorney General's Office  
Department of Health and Senior Services

SOURCES OF INFORMATION (continued)

Department of Mental Health  
Joint Committee on Administrative Rules  
Office of State Courts Administrator  
State Public Defender's Office  
Springfield Police Department  
Cole County Sheriff's Office  
St. Louis County Justice Services  
University of Missouri



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