

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0667-01
Bill No.: Perfected HB 170
Subject: Agriculture; Agriculture, Department of; Crimes and Punishment; Drugs and Controlled Substances
Type: Original
Date: April 5, 2017

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

FISCAL SUMMARY

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

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

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)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	(\$6,218)

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
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE	1 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

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

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses to the amendment in a timely manner due to the short fiscal note request time. 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.

Officials at the **Department of Public Safety - Missouri Highway Patrol (MHP)** 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:

ASSUMPTION (continued)

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.

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 # 0667.01 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.

ASSUMPTION (continued)

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.

§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 FTE Investigator (at \$39,000 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; 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.

Officials at the **St. Louis County Police Department** assume this 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

ASSUMPTION (continued)

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): $\$100 + (45 * 20 * 37.41 * 1) = \$33,769$.

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 **Department of Health and Senior Services, Department of Mental Health, Governor's Office, Joint Committee on Administrative Rules, Office of State Courts Administrator, and Office of Prosecution Services** each assume this proposal will not have a fiscal impact on their respective organizations.

In response to a similar proposal from this session (HB 83), officials at the **Attorney General's Office** assumed the proposal would not have a fiscal impact on their organization

Officials at the **Springfield Police Department** assume this proposal would not have a fiscal impact on their organization.

Officials at the **Cole County Sheriff's Office** assume this proposal would not have a fiscal impact on their organization.

Officials at the **St. Louis County Justice Services** assume this proposal would not have a fiscal impact on their organization.

ASSUMPTION (continued)

Officials at the **University of Missouri** assume this proposal would not have a fiscal impact on their organization.

House Amendment 1

Officials at the **Department of Public Safety - Highway Patrol** assume this amendment will not change previous response to this proposal which stated it could have a negative fiscal impact on their organization.

Officials at the **Joint Committee on Administrative Rules** assume this amendment will not have a fiscal impact on their organization.

Oversight assumes the amendment will not change the fiscal impact provided for the previous version of this proposal (0667-01) from the responding agencies.

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)
GENERAL REVENUE				
<u>Costs - DPS - MHP</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 - MHP	(\$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>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$60,000)</u>	<u>(\$3,051)</u>	<u>(\$814)</u>	<u>\$6,451</u>

<u>FISCAL IMPACT - State Government</u> - (continued)	<u>FY 2018</u> <u>(10 Mo.)</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>Fully</u> <u>Implemented</u> <u>(FY 2023)</u>
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AG PROTECTION FUND

<u>Income</u> - AGR - license and inspection	\$77,820	\$77,820	\$77,820	\$77,820
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Costs - AGR

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
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ESTIMATED NET EFFECT TO THE AG PROTECTION FUND	<u>(\$13,699)</u>	<u>(\$4,150)</u>	<u>(\$5,176)</u>	<u>(\$6,218)</u>
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Net FTE Change - AGR	1 FTE	1 FTE	1 FTE	1 FTE
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<u>FISCAL IMPACT - Local Government</u>	<u>FY 2018</u> <u>(10 Mo.)</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>Fully</u> <u>Implemented</u> <u>(FY 2023)</u>
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LOCAL GOVERNMENT

Costs - Local Law Enforcement

Training	(Greater than <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>

ESTIMATED NET EFFECT TO LOCAL GOVERNMENT	<u>(Greater than \$33,769)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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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 0.3% THC, from the definition of marijuana and the list of controlled substances. In addition, it is legal for any person who has received an industrial hemp license from the Missouri Department of Agriculture to grow, harvest, and cultivate industrial hemp. A person who wants to produce and handle agricultural hemp seed for sale to licensed industrial hemp growers and handlers must also receive an agricultural hemp seed production permit from the department.

The bill creates an industrial hemp agricultural pilot program and specifies the requirements for an applicant of an industrial hemp license and agricultural hemp seed production permit. The department must issue a license or permit to an applicant who meets the statutory requirements and upon satisfactory completion of a fingerprint criminal history background check. A license or permit may not be issued to a person who has been found guilty of a felony offense within 10 years or a person who, at any time, has been found guilty of a felony offense under state or federal law regarding the 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 Missouri State Highway Patrol.

An industrial hemp license or agricultural hemp seed production permit 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 unless revoked by the department; and may be renewed as determined by the department.

Every grower or handler must be subject to an industrial hemp plant monitoring system. The department may inspect a grower or handler to ensure compliance with statutes, department rules, the monitoring system, or a final department order directed to the grower's or handler's industrial hemp operations or activities.

The department may also inspect any industrial hemp crop during the crop's growth phase and take a representative composite sample for field analysis. Crop exceeding the allowable THC limits may be detained, seized, or embargoed.

The department may charge growers and handlers reasonable fees as determined by the department and adopt rules to administer the program. The department is also allowed to revoke or refuse to issue or renew an industrial hemp license or agricultural hemp seed production permit and to impose a civil penalty of not less than \$2,500 or more than \$50,000 for a violation of the requirements of the license or permit, department rules relating to growing or handling industrial hemp, the monitoring system, or a final order of the department that is specifically directed to the grower's or handler's industrial hemp operations or activities. In addition, the department may revoke or refuse to issue or renew a license or permit for failing to comply with statute or for a violation of department rules regarding agricultural operations or activities other than industrial hemp growing or handling.

FISCAL DESCRIPTION (continued)

A person who grows industrial hemp without a valid industrial hemp license is subject to an administrative fine of \$500 and must obtain an industrial hemp license within 30 days. If the person obtains the license within 30 days, the fine is refunded. If the person fails to obtain a license within 30 days, 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 Safety - Highway Patrol
Department of Corrections
Department of Agriculture
St. Louis County Police Department
Office of the Secretary of State
Department of Health and Senior Services
Department of Mental Health
Governor's Office
Joint Committee on Administrative Rules
Office of State Courts Administrator
Office of Prosecution Services
Attorney General's Office
Springfield Police Department
Cole County Sheriff's Office
St. Louis County Justice Services
University of Missouri



Mickey Wilson, CPA
Director
April 5, 2017

Ross Strobe
Assistant Director
April 5, 2017