



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

SB 26-164: REGULATION OF LAWFUL THC BEVERAGES

Prime Sponsors:

Sen. Gonzales J.
Rep. Martinez; Woodrow

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Fiscal note status: The fiscal note reflects the introduced bill.

Summary Information

Overview. The bill creates a regulatory framework in the Departments of Public Health and Environment and Revenue for the manufacture and sale of THC beverages.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Expenditures
- TABOR Refunds
- Local Government

Appropriations. For FY 2026-27, the bill requires appropriations totaling \$460,825 to multiple agencies.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	\$30,000	\$2,143,984	\$2,510,411
State Expenditures	\$480,418	\$2,744,279	\$3,257,653
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$30,000	\$2,143,984	Not estimated
Change in State FTE	2.3 FTE	15.5 FTE	22.3 FTE

Fund sources for these impacts are shown in the tables below.

**Table 1A
 State Revenue**

Fund Source	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
General Fund	\$0	\$0	\$0
Cash Funds	\$30,000	\$2,143,984	\$2,510,411
Total Revenue	\$30,000	\$2,143,984	\$2,510,411

**Table 1B
 State Expenditures**

Fund Source	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
General Fund	\$430,815	\$373,869	\$373,869
Cash Funds	\$30,010	\$2,149,525	\$2,512,861
Federal Funds	\$0	\$0	\$0
Centrally Appropriated	\$19,593	\$220,885	\$370,923
Total Expenditures	\$480,418	\$2,744,279	\$3,257,653
Total FTE	2.3 FTE	15.5 FTE	22.3 FTE

Summary of Legislation

Regulation of THC Beverages

The bill establishes a framework for the manufacture, distribution, sale, and consumption of “lawful THC beverages”. Lawful THC beverages are defined as nonalcoholic beverages infused with hemp-derived THC containing no more than 10 milligrams per serving. The beverages must be derived from hemp and not marijuana or synthetic or semi-synthetic cannabinoids.

Regulatory Oversight

Regulatory oversight for these new beverages is split between two agencies, the Department of Public Health (CDPHE) and the Department of Revenue (DOR). CDPHE will regulate the manufacturing side, including permitting hemp product manufacturers, and setting rules for labeling, packaging, production, testing, and transportation. The Liquor Enforcement Division (LED) within DOR will regulate sales and distribution of THC beverages by wholesalers and retailers. LED must also adopt rules around retail sales, wholesale sales, advertising, vendor training, trade practices, loyalty programs, tastings, and penalties

By January 1, 2028, CDPHE must adopt labeling, packaging, and consumer notice rules, while the DOR must adopt rules covering sales, transportation, inventory, recall, and seizure. The two agencies are required to consult each other when developing overlapping rules.

Supply Chain Requirements

Manufacturers may only sell lawful THC beverages to licensed wholesalers; direct sales to retailers or consumers are prohibited. Existing liquor wholesalers and marijuana transporters may distribute THC beverages in the same manner they handle liquor or regulated marijuana.

Retail Sales

Retailers holding valid liquor or retail marijuana hospitality sales licenses may apply for a permit to sell THC beverages. Retailers must follow several restrictions, including not selling to anyone under 21 or visibly intoxicated, not allowing on-site consumption beverages to leave the premises, not permitting marijuana use on-site, and not mixing THC and alcohol beverages in the same container.

Local Control

Local governments retain the authority to prohibit THC beverage sales within their jurisdictions by ordinance or resolution and to regulate these beverages in a similar way to alcoholic beverages. Local governments must not impose additional requirements on THC beverages beyond those imposed by LED, nor may they adopt regulations to treat alcoholic beverages and lawful THC beverages differently.

Background and Assumptions

THC Beverages and DOR Regulation

THC beverages are in the marketplace today and are primarily sold where alcohol beverages are sold. The LED currently regulates the manufacture, distribution, and sale of alcohol beverage products across the state, while the Marijuana Enforcement Division is responsible for licensing and regulating commercial marijuana businesses, their owners, and employees. It is assumed that the LED will regulate THC beverages based on the point of THC beverage sale.

THC Beverage Manufacturers and CDPHE Regulation

The Manufactured Food Program within the Division of Environmental Health and Sustainability (DEHS) currently regulates hemp product manufacturers and safe harbor hemp product manufacturers. THC beverage manufacturers will be regulated by this program. When compared to traditional food manufacturers, the DEHS' experience with manufacturers who currently manufacture intoxicating hemp products as safe harbor hemp product manufacturers indicates the need for resources to address non-compliance, unapproved sources, unapproved solvent use, illegal dumping, falsification of testing results, enforcement, embargos, and product destruction.

Population

Department of Revenue

Based on DOR data, the following businesses would be eligible for this permit:

- 10,538 liquor licensees that are licensed under Article 3 of Title 44;
- 492 liquor wholesalers;
- 9 retail marijuana transporters; and
- 10 retail marijuana hospitality and sales businesses.

While the bill contemplates grocery and convenience stores, the fiscal note does not include the 2,057 retail licensees that are licensed as a fermented malt beverage and wine license, as they are licensed under Article 4 of Title 44.

Of these, it is assumed that 70 percent of liquor-licensed retailers and 100 percent of wholesalers, marijuana transporters, and retail marijuana hospitality and sales businesses will apply for a THC beverage permit, which totals 7,888 businesses.

Department of Public Health and Environment

It is assumed 20 new facilities will register as regulated hemp facilities under CDPHE. The annual registration fee for regulated hemp facilities is set in statute at \$1,500.

Comparable Crime Analysis

Legislative Council Staff is required to include certain analysis in the fiscal note for any bill that creates a new crime, or that either reclassifies or creates a new factual basis for an existing crime. This section identifies comparable crimes and discusses assumptions on future conviction rates resulting from the bill.

Prior Conviction Data and Assumptions

This bill creates a new factual exception for the existing offense of permitting the illegal sale of a controlled substance by excluding THC beverages from the offense. From FY 2022-23 to FY 2024-25, zero offenders have been sentenced and convicted for this offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit the [Fiscal Notes website](#) for more information about criminal justice costs in fiscal notes.

State Revenue

The bill will increase state fee revenue by an estimated \$30,000 in FY 2026-27, \$2.1 million in FY 2027-28, \$2.5 million in FY 2028-29, and by similar amounts ongoing, as outlined below.

Fee Impact on THC Beverage Businesses

Legislative Council Staff is required to estimate the fee impact of bills that create or increase any fee collected by a state agency. The annual registration fee for regulated hemp facilities is set in statute at \$1,500. DOR fees will be set administratively by DOR based on cash fund balance, program costs, and the number of businesses that seek regulation.

Table 2A
Fee Impact on THC Beverage Businesses
FY 2026-27

Type of Fee	Estimated Fee	Number Affected	Total Fee Impact
Regulated Hemp Facility	\$1,500	20	\$30,000
Total Fee Revenue – FY 2026-27			\$30,000

Table 2B
Fee Impact on THC Beverage Businesses
FY 2027-28

Type of Fee	Estimated Fee	Number Affected	Total Fee Impact
THC Beverage Initial Permit	\$268	7,888	\$2,113,984
Regulated Hemp Facility	\$1,500	20	\$30,000
Total Fee Revenue – FY 2027-28			\$2,143,984

Table 2C
Fee Impact on THC Beverage Businesses
FY 2028-29

Type of Fee	Estimated Fee	Number Affected	Total Fee Impact
THC Beverage Renewal Permit	\$312	7,888	\$2,461,056
THC Beverage Initial Permit	\$245	79	\$19,355
Regulated Hemp Facility	\$1,500	20	\$30,000
Total Fee Revenue – FY 2028-29			\$2,510,411

State Expenditures

The bill increases state expenditures by about \$480,000 in FY 2026-27, \$2.7 million in FY 2027-28, and \$3.3 million in FY 2028-29 and ongoing. These costs will be incurred in DOR and CDPHE. First-year legal services for the DOR are paid from the General Fund; out-year DOR costs are paid from the LED Cash Fund. CDPHE costs are paid primarily from the General Fund but are partially offset by the Wholesale Food Manufacturing & Storage Protection Cash Fund. Impacts are shown in Table 3 and described in the sections below. The bill may also impact the state's Risk Management Fund in the Department of Personnel and Administration.

Table 3
State Expenditures
All Departments

Department	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
Liquor Enforcement Division, DOR	\$249,246	\$2,323,188	\$2,836,562
Division of Environmental Health, CDPHE	\$231,172	\$421,091	\$421,091
Total Costs	\$480,418	\$2,744,279	\$3,257,653

Department of Revenue

The DOR requires permitting and enforcement staff, as well as legal services, to implement the bill. These impacts are discussed below and shown in Table 3A.

Staff

The bill allows for the regulation of THC beverages on January 1, 2028; therefore, it is assumed that implementation will occur in two phases. The first phase will take place in 2027 and include the majority of the rulemaking, training, and permitting procedures. The second phase will take place in 2028, when the LED will begin issuing applications and conducting enforcement operations.

The following staff phase-in over FY 2027-28 and FY 2028-29. Standard operating and capital outlay are included for each staff, except where additional costs are required.:

- 13.0 FTE Criminal Investigator III, which are POST-certified positions requiring related equipment and one vehicle equipped with a trunk radio per team;
- 2.0 FTE Administrator III;
- 1.0 FTE Legal Assistant II; and
- 0.4 FTE Criminal Investigator IV.

Criminal investigators will conduct compliance checks and investigate complaints for the estimated 7,888 retailers that sell THC beverages. Administrators will issue permits for initial applications and renewals and the Legal Assistant will write reports for businesses that are found

to be out of compliance. Staff costs are based on similar enforcement activities for alcoholic beverages and assume a December 2027 start date.

Additional costs are included for underage operatives and related equipment, and assume 6 underage operatives are required once the bill is fully implemented in FY 2028-29. Minor operatives require \$1,500 in equipment expenses are paid \$20 per hour for an estimated 1,850 hours in FY 2027-28 (a half-year impact) and 3,700 hours in FY 2028-29 and ongoing.

Legal Services

The department requires legal services for stakeholder outreach and legal assessments estimated at 1,800 hours (1.0 FTE) in FY 2026-27, paid from the General Fund. From FY 2027-28 and thereafter, legal services are estimated at 7,200 hours (4.0 FTE) to provide general counsel and representation on regulatory actions.

**Table 3A
 State Expenditures
 Department of Revenue**

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
Personal Services	\$0	\$778,408	\$1,331,416
Operating Expenses	\$0	\$12,288	\$20,992
Capital Outlay Costs	\$0	\$222,500	\$0
Legal Services	\$249,246	\$996,984	\$996,984
Fleet Vehicles	\$0	\$44,280	\$44,280
Underage Operative Costs	\$0	\$49,624	\$81,248
Centrally Appropriated Costs	\$0	\$211,604	\$361,642
FTE – Personal Services	0.0 FTE	9.6 FTE	16.4 FTE
FTE – Legal Services	1.0 FTE	4.0 FTE	4.0 FTE
Total Costs	\$249,246	\$2,323,188	\$2,836,562
Total FTE	1.0 FTE	13.6 FTE	20.4 FTE

Department of Public Health and Environment

CDPHE requires staff and legal services to implement the bill. These impacts are discussed below and shown in Table 3B.

Staff

The DEHS requires 0.8 FTE in FY 2026-27, reduced to 0.4 FTE in FY 2027-28 and ongoing. Environmental protection Specialists and Administrators will work with general counsel to adopt rules related to the manufacture, sale, distribution, labeling, and packaging of THC beverages manufactured in Colorado and the sale and effective testing of lawful THC beverages

manufactured outside of the state. Staff will also develop laboratory testing standards for THC beverages. On an ongoing basis, staff will process registrations, conduct inspections, and provide compliance assistance.

Legal Services

The department requires legal services for stakeholder outreach and legal assessments estimated at 900 hours (0.5 FTE) in FY 2026-27, paid from the General Fund. From FY 2027-28 and thereafter, legal services are estimated at 2,700 hours (1.5 FTE) to provide general counsel and representation on regulatory actions.

**Table 3B
 State Expenditures
 Department of Public Health and Environment**

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
Personal Services	\$85,932	\$37,429	\$37,429
Operating Expenses	\$1,024	\$512	\$512
Capital Outlay Costs	\$0	\$0	\$0
Legal Services	\$124,623	\$373,869	\$373,869
Centrally Appropriated Costs	\$19,593	\$9,281	\$9,281
FTE – Personal Services	0.8 FTE	0.4 FTE	0.4 FTE
FTE – Legal Services	0.5 FTE	1.5 FTE	1.5 FTE
Total Costs	\$231,172	\$421,091	\$421,091
Total FTE	1.3 FTE	1.9 FTE	1.9 FTE

Department of Personnel and Administration

The bill creates the possibility for legal challenges related to federal law, and for lawsuits from unintended consumers of THC beverages. Additional legal services and settlement costs may be requested through the annual budget process, paid from the Risk Management Fund using assessments paid by state agencies based on actual claims and updated actuarial assumptions.

Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in the expenditure tables above.

TABOR Refunds

The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in Table 1. This estimate assumes the March 2026 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2027-28. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save in FY 2027-28, and any future years when the state is over its revenue limit.

Local Government

The bill permits a local government to prohibit the sale of lawful THC beverages within the local government's jurisdiction, which will increase workload for those local governments that seek to enact ordinances or resolutions.

To the extent that there are manufacturer compliance concerns, complaints, or illness outbreaks, local public health agencies will be required to collaborate with CDPHE other agencies in their response.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, except for other portions that take effect on January 1, 2028.

State Appropriations

For FY 2026-27, the bill requires the following appropriations:

- \$249,246 from the General Fund to the Department of Revenue, with this full amount reappropriated to the Department of Law with 1.0 FTE; and
- \$211,579 to the Department of Public Health and Environment, including:
 - \$181,569 from the General Fund and 0.6 FTE, of which \$124,623 is reappropriated to the Department of Law with an additional 0.5 FTE, and
 - \$30,010 from the Wholesale Food Manufacturing and Storage Protection Cash Fund and 0.2 FTE.

State and Local Government Contacts

Information Technology

Municipalities

Judicial

Public Health and Environment

Law

Revenue

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).