



Legislative Council Staff
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Revised Fiscal Note

(replaces fiscal note dated April 28, 2022)

Drafting Number:	LLS 22-0901	Date:	May 4, 2022
Prime Sponsors:	Sen. Coram; Fenberg Rep. Valdez A.	Bill Status:	Senate Appropriations
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Bill Topic: INTOXICATING HEMP & TETRAHYDROCANNABINOL PRODUCTS

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure
 - State Transfer
 - TABOR Refund
 - Local Government
 - Statutory Public Entity

This bill authorizes the Department of Public Health and Environment to promulgate rules prohibiting intoxicating tetrahydrocannabinol isomers that originate from industrial hemp or may be synthetically derived, requires the Department of Revenue to establish a task force study intoxicating hemp products and make legislative and rule recommendations, and creates an unfair or deceptive trade practice. The bill increases expenditures beginning in FY 2022-23 and ongoing, and may increase state revenue.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$587,347 to the Department of Law.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the Senate Business Committee and Senate Finance Committee.

Table 1
State Fiscal Impacts Under SB 22-205

	Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		
Expenditures		
Cash Funds	\$587,347	\$576,687
Centrally Appropriated	\$58,250	\$58,250
Total Expenditures	\$645,597	\$634,937
Total FTE	3.0 FTE	3.0 FTE
Transfers	-	-
Other Budget Impacts	-	-

Summary of Legislation

This bill makes several changes involving hemp, described in more detail below, including:

- authorizing the Department of Public Health and Environment (CDPHE) to promulgate rules prohibiting intoxicating tetrahydrocannabinol isomers that originate from industrial hemp or may be synthetically derived;
- requiring the Department of Revenue to establish a task force to study intoxicating hemp products and make legislative and rule recommendations; and
- creating an unfair or deceptive trade practice to be enforced by the Department of Law.

Rulemaking. The CDPHE is authorized to promulgate rules to prohibit the sale of final products that contain the chemical modification, conversion, or synthetic derivation of intoxicating tetrahydrocannabinol isomers, including delta-8, delta-9, and delta-10, or other intoxicating tetrahydrocannabinol isomers that originate from industrial hemp or may be synthetically derived.

Task force. The Marijuana Enforcement Division (MED) in the Department of Revenue is required to create a task force to study intoxicating hemp products and make legislative and rule recommendations. Members include representatives of several state agencies and stakeholders in industrial hemp and medical and retail marijuana. The task force must be convened by September 1, 2022, and report to the General Assembly by January 1, 2023. The report must contain the task force's legislative recommendations concerning the regulation of industrial hemp and an analysis of the effectiveness of each recommendation. The report must also include rule recommendations concerning the regulation of intoxicating hemp products.

Consumer Protection Act. A person who violates the Pure Food and Drug Act or the Marijuana Code as either applies to hemp, industrial hemp, industrial hemp products, intoxicating hemp, adult use cannabis products, the plant cannabis sp., or anything derived from or produced from the plant cannabis sp. commits an unfair or deceptive trade practice, enforceable by the Department of Law.

Background

Delta-9 THC occurs naturally in cannabis and is the main psychoactive ingredient in medical and retail marijuana. Industrial hemp is defined in Colorado law as cannabis that contains a delta-9 THC concentration of no more than three-tenths of one percent on a dry weight basis. Industrial hemp, because of its low delta-9 THC content, is not considered a Schedule 1 Controlled Substance federally.

Industrial hemp also contains cannabidiol (CBD) which is made into a number of products including foods, lotions, and medications that are widely available. Industrial hemp products are currently on the market, outside of regulated marijuana markets, that contain delta-8 THC, an artificially derived CBD produced from industrial hemp. The delta-8 THC is synthesized from CBD with the use of solvents and has psychoactive and intoxicating effects. The federal Food and Drug Administration has not evaluated or approved products containing delta-8 THC.

State Revenue

The bill may increase revenue from civil penalties for violations of the Consumer Protection Act which are deposited in the General Fund and subject to TABOR.

State Expenditures

The bill increases state expenditures from the Marijuana Tax Cash Fund by \$645,597 in FY 2022-23 and \$626,997 in FY 2023-24 for the Department of Law. Expenditures are shown in Table 2 and detailed below.

**Table 2
 Expenditures Under SB 22-205**

Cost Components	FY 2022-23	FY 2023-24
Department of Law		
Personal Services	\$313,747	\$313,747
Operating Expenses	\$4,050	\$4,050
Capital Outlay Costs	\$18,600	-
Vehicles	\$4,630	\$4,630
Mileage	\$1,320	\$1,320
Consultant and Laboratory Costs	\$245,000	\$245,000
Centrally Appropriated Costs ¹	\$58,250	\$58,250
Total	\$645,597	\$626,997
Total FTE	3.0 FTE	3.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Law. By establishing violations of this bill as unfair and deceptive trade practices, the bill is expected to increase the number of complaints the Consumer Protection Section of the Department of Law receives. The section is also expected to initiate investigations. The section requires an increase of 3.0 FTE to investigate complaints and take enforcement action if indicated. The section also requires a consultant to provide expertise on intoxicating hemp and laboratory testing to determine THC content in industrial hemp products. Costs include standard operating, capital outlay, and vehicle lease and mileage and assume a July 1, 2022 start date. Staff will be hired at the salary midpoints.

Other State Agencies. The Department of Revenue will have an increase in workload to appoint members and convene and participate in the task force. The Department of Agriculture and the Department of Public Health and Environment will have an increase in workload to collaborate on the appointment of members to the task force and to participate in the task force.

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 Table 2.

Local Government

Local government representatives that participate in the task force will have an increase in workload

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2022-23 the bill requires an appropriation of \$587,347 from the Marijuana Tax Cash Fund to the Department of Law and 3.0 FTE. Of this, \$4,630 is reappropriated to the Department of Personnel and Administration for leased vehicle services. Currently, the bill includes an appropriation of \$675,000 to the Department of Law.

State and Local Government Contacts

Agriculture
Law
Revenue

Counties
Municipalities

Information Technology
Public Health and Environment