

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 843** HLS 20RS 1214

Bill Text Version: **REENGROSSED**

Opp. Chamb. Action: **W/ SEN FLOOR AMD**

Proposed Amd.:

Sub. Bill For.:

Date: May 29, 2020	12:37 PM	Author: SCHEXNAYDER
Dept./Agy.: Agriculture, Alcohol & Tobacco Control, and Public Health		Analyst: Patrice Thomas
Subject: Regulation of Industrial Hemp Products and CBD Products		

AGRICULTURAL COMMODITIES REF INCREASE GF EX See Note Page 1 of 2
To provide for the regulation of industrial hemp, industrial hemp products, and industrial hemp-derived cannabidiol (CBD) products

Proposed law amends and enacts Industrial Hemp as follows: (1) expands the definition of an applicant to include legal entities or organizations; (2) defines "federally defined level of hemp" and changes the THC level to the federally defined level or lower; (3) defines key participant and requires each key participant to have a criminal background check; (4) authorizes Dept. of Agriculture to obtain and have access to applicants' criminal background checks; (5) adds an application fee to authorized fee but does not change \$500 fee cap; (6) increases the scope of random inspections; (7) authorizes contracting with public postsecondary education institutions for THC testing; and (8) authorizes Dept. of Agriculture to issue stop orders. Proposed law amends and enacts Industrial Hemp-Derived Cannabidiol (CBD) products as follows: (1) defines "federally defined level of hemp", "remote seller", and "retail sale"; (2) allows the sale of hemp rolling papers; (3) provides for penalties up to \$300 for 1st offense, \$1,000 for 2nd offense, and up to \$5,000 for 3rd and subsequent offenses; (4) specifies criminal penalties apply only to knowing, willing, or intentional acts; (5) CBD labels must be approved by Dept of Health and

SUMMARY CONTINUED ON PAGE 2

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total						
REVENUES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						

EXPENDITURE EXPLANATION

Proposed law does not impact expenditures within the LA Department of Agriculture and Forestry (LDAF) but will increase SGF and SGR expenditures within the LA Department of Revenue, Office of Alcohol and Tobacco Control (ATC) by \$301,954 of SGR and the LA Department of Health, Office of Public Health (OPH) by \$367,729 (\$291,329 SGF and \$76,400 SGR) in FY 21.

LA Department of Agriculture and Forestry (LDAF) - Proposed law authorizes LDAF to establish an annual application fee for any grower, processor, contract carrier, or industrial hemp seed producer. The application fee is in addition to the existing licensing fee. Also, proposed law expands random inspections to include anyone with a grower license, contract carrier license, or processor license as well as authorizes the department to issue stop orders for noncompliance and contract with public universities to conduct testing. LDAF reports that these duties can be accomplished by utilizing existing personnel and resources. LDAF may also realize an indeterminable workload impact associated with the provision of data and assistance to the Industrial Hemp Advisory Committee (see "Legislative" on Page 2).

Office of Alcohol and Tobacco Control (ATC) - Proposed law will increase SGR expenditures by \$301,954 in ATC. Proposed law restricts ATC's authority to regulate or issue permits to wholesale sellers, distributors, or packers of industrial hemp-derived CBD products. As a result, this measure eliminates ATC's authority to collect a \$175 permit fee paid by wholesalers. Proposed law replaces the wholesalers permit with a retailers permit. Under proposed law, ATC is authorized to establish and collect a \$175 annual retail permit fee

SEE EXPENDITURE EXPLANATION CONTINUED ON PAGE 2

REVENUE EXPLANATION

Proposed law will increase SGR revenues within ATC for annual retail and special event permits from retailers that sell industrial hemp-derived CBD products as well as an increase in SGR revenues within OPH for annual examination and investigation fees from industrial hemp-derived CBD product labels. Currently, ATC estimates revenue collections of \$325,000 from annual retail and special event permits, but future revenue collections are indeterminable due to the unknown number of new retail applications or special events permit applications in future fiscal years. OPH estimates the total revenue collections from permit and label fees of \$76,400 in FY 21, increasing to \$202,800 in FY 25.

Although proposed law authorizes LDAF to establish an annual application fee in addition to the existing license fee, the combined total of the application fee and the license fee cannot exceed \$500, which is the amount of the existing license fee. Therefore, the proposed law does not impact revenues in LDAF.

Proposed law may result in an indeterminable increase in Local Funds revenue as a result of two sets of civil fines. Penalties for violations of proposed law: (1) 1st offense - up to \$300, (2) 2nd offense - up to \$1,000, (3) 3rd and subsequent offenses - up to \$5,000. Penalties for selling without a permit: (1) 1st offense - up to \$300, (2) 2nd offense - up to \$1,000, and (3) 3rd and subsequent offenses - \$500 up to \$3,000. The potential revenue will accrue to the local governing authority. The potential net effect on sentencing decisions cannot be determined and the potential revenue impact is therefore unknown.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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Staff Director



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CONTINUED EXPLANATION from page one:
SUMMARY CONTINUED FROM PAGE ONE

cannot contain any active ingredient other than hemp; (6) industrial hemp derived CBD products are regulated by Dept. of Health under the Safe Food law; (7) each registered domain is a place of business and person selling industrial hemp-derived CBD is not required to have a physical address in LA; (8) removes the authority of the Dept. of Revenue, Office of Alcohol and Tobacco Control (ATC) to permit or regulate industrial hemp-derived CBD products at the wholesale, distributor, and packing level; (9) authorizes ATC to collect annual retail permit fees and annual special event permit fees; (10) authorizes ATC to impose civil fines for selling without a permit of up to \$300 for 1st offense, up to \$1,000 for 2nd offense, and at least \$500 up to \$3,000 for 3rd and subsequent offense; (11) suspension of retailer permits for nonpayment of taxes; and (12) creates the Industrial Hemp Advisory Committee within the Legislative branch and provides for its membership.

EXPENDITURE EXPLANATION CONTINUED FROM PAGE ONE

and a \$175 annual special event permit fee. Currently, there are approximately 1,500 retailers licensed to sell hemp-derived CBD products. To regulate and permit retailers, ATC reports needing 6 T.O. positions at a cost of \$276,594 - four ATC Agent 2 positions (\$209,436 salary and related benefits) and two Administrative Coordinator 1 positions (\$67,158 salary and related benefits). To the extent the additional workload is less than what ATC anticipates, the additional workload may be absorbable, either wholly or partially, using existing staff and resources or may be achievable with fewer than six T.O. positions. Alternatively, if CBD industry activity expands dramatically, ATC may require additional resources over the estimate provided. ATC also reports one-time FY 21 expenditures of \$25,360 for IT system design. ATC may also realize an indeterminable workload impact associated with the provision of data and assistance to the Industrial Hemp Advisory Committee (see "Legislative" below).

Table with 6 columns: EXPENDITURES, FY 20-21, FY 21-22, FY 22-23, FY 23-24, FY 24-25. Rows include Personal Services*, Professional Services, TOTAL, and T.O.

*Assumes an annual 2% Market Rate Adjustment

Office of Public Health (OPH) - The Bureau of Sanitarian Services within OPH reports proposed law will increase expenditures by \$367,729 (\$291,329 SGF and \$76,400 SGR). To regulate manufacturers and packers of industrial hemp-derived CBD products, OPH projects needing four Sanitarian T.O. positions (\$317,925 salary and related benefits). To the extent the additional workload is less than what OPH anticipates, the additional workload may be absorbable, either wholly or partially, using existing staff and resources or may be achievable with fewer than four T.O. positions. Alternatively, if CBD industry activity expands dramatically, OPH may require additional resources over the estimate provided. Other costs LDH estimates include \$41,248 for recurring operating services expenditures (travel, supplies, vehicle rental, telephone) and one-time FY 21 expenditures of \$7,756 for the acquisition of office equipment (LDH estimates an additional expenditure of \$5,616 in FY 25 for replacement equipment). The LFO anticipates OPH will use the revenues from inspecting these facilities and the sale of product labels to partially cover its estimated operating costs, however, OPH estimates revenues will not be sufficient to fully cover these significant expenditures in the short term and that it will require an additional appropriation of SGF. OPH may also realize an indeterminable workload impact associated with the provision of data and assistance to the Industrial Hemp Advisory Committee (see "Legislative" below).

Table with 6 columns: EXPENDITURES, FY 20-21, FY 21-22, FY 22-23, FY 23-24, FY 24-25. Rows include Personal Services*, Operating Services, Professional Services, Acquisitions, TOTAL, and T.O.

*Assumes an annual 2% Market Rate Adjustment. Personal services in FY 21 reflects 9 months of expenditures associated with new positions.

Legislative - Proposed law creates with Industrial Hemp Advisory Committee comprised of twelve (12) designated legislators serving in leadership roles or their designees. Legislative members of the committee are assumed to receive a per diem rate of \$161 in addition to travel reimbursement of \$0.575 per mile. Legislative expenditures are made from the SGF. Any additional workload associated with advisory committee administrative activities is anticipated to be handled with existing staff and resources within the Legislative branch, specifically staff support from the committee staff of the House and Senate Committees on Agriculture. Proposed law authorizes the committee to call upon the staff of any department, agency or official of the state for data and assistance, which may also create an indeterminable workload impact for the respective state agencies and/or departments.

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[] 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
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