

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 709** HLS 21RS 2517

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.: **HB 637**

Date: May 19, 2021	4:07 PM	Author: NEWELL
Dept./Agy.: Agriculture and Forestry; Alcohol and Tobacco Control		Analyst: Patrice Thomas
Subject: Regulation of Cannabis		

CONTROLLED SUBSTANCES

EG INCREASE SG EX See Note

Page 1 of 2

Provides relative to the regulation of cannabis

Proposed law authorizes the Dept. of Agriculture and Forestry (LDAF) issue up to 10 production facility licenses valid for 5 years; requires applicants and subcontractors to undergo suitability requirements including finger printing and a state and national criminal background check; application fee up to \$2,500; production facility license fee up to \$100,000; cannabis equity licensee may request loan from LA Agriculture Finance Authority (LAFA); permit fee up to \$50; transportation carrier fee up to \$250; allows for the transportation of cannabis in limited situations; provides for civil penalties up to \$50,000 per violation per day based upon ruling of the LDAF commissioner; and excludes therapeutic marijuana. Proposed law authorizes the Commissioner of the Office of Alcohol and Tobacco Control (ATC) to issue up to 40 cannabis retailer permits valid for 2 years; an application fee of up to \$2,500 (cover suitability costs); retailer permit fee up to exceed \$100,000 and renewal fee of \$50,000; suitability qualification of retail applicants; provides for civil penalties of \$2,500 to \$10,000 and imprisonment from six (6) months to five (5) years or both. Proposed law effective upon enactment of HB 243 of 2021 RLS.

EXPENDITURES	2021-22	2022-23	2023-24	2024-25	2025-26	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						

REVENUES	2021-22	2022-23	2023-24	2024-25	2025-26	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 will increase SGR expenditures by an indeterminable amount, estimated by the LA Department of Agriculture and Forestry (LDAF) at \$2.4 M for the creation and licensing of up to ten (10) cannabis production facilities, and by the Department of Revenue, Office of Alcohol Tobacco and Control (ATC) at \$298,306 to issue cannabis retailer permits. The proposed law may result in an indeterminable expenditure increase in the Department of Public Safety and Correction - Public Safety, District Attorneys, and local governmental entities.

LA Department of Agriculture and Forestry (LDAF) - LDAF estimates SGR expenditures will increase by \$2,460,098 (\$1,647,098 one-time and \$813,062 recurring) in FY 22. The proposed law requires LDAF to create and issue up to 10 cannabis production facility licenses valid for five years. The LFO assumes all 10 authorized facilities will be licensed and requires the LDAF to immediately need staff, equipment, and vehicles in order to inspect, regulate, and test the product at facilities. To the extent all 10 cannabis production facilities are licensed, LDAF anticipates this measure will require 11 additional positions (an Assist Division Director, seven Agriculture Specialist positions, and three Lab Scientist positions). The position estimate includes seven months of salaries and related benefits (\$522,337), travel (\$25,000), maintenance (\$1,100), supplies (\$261,535), and telephone (\$3,090), as well as a one-time costs for computer and printer (\$104,300), office furniture (\$9,500), and lab equipment (\$1,533,598). Beginning in FY 23, the department anticipates professional services expenditures for auditing services (\$111,320). In subsequent fiscal years, this fiscal note assumes a 2% market rate adjustment in salaries and related benefits for classified staff and 12 months (total expenditures of \$1,592,660 in FY 23, \$1,604,144 in FY 24, \$1,615,858 in FY 25, and \$1,627,806 in FY 26).

EXPENDITURE EXPLANATION Continues on Page 2

REVENUE EXPLANATION

Proposed law will result in a significant increase in SGR revenues for the LA Department of Agriculture and Forestry (LDAF) from the creation and licensing of up to ten (10) cannabis production facilities. To the extent the maximum number of facilities are licensed, LDAF will receive \$1,000,000 (10 x \$100,000) in annual license fees. Also, the proposed law authorizes LDAF to assess an annual permit fee (\$50) for persons employed in production facility and an annual transportation carrier fee (\$250) for persons transporting cannabis. However, the potential number that will a license, permit fee, or transportation carrier fee is indeterminable.

Proposed law will result in a significant increase in SGR revenues for the Department of Revenue (LDR), Office of Alcohol and Tobacco Control (ATC) from the permitting of cannabis retailers. To the extent the maximum of 40 cannabis retailer permits are issued, ATC will receive \$4,000,000 (40 x \$100,000) in initial license fees and renewal licensing fees of \$2,000,000 (40 x \$50,000) in subsequent fiscal years. However, the potential number of retailers that will seek permits is indeterminable.

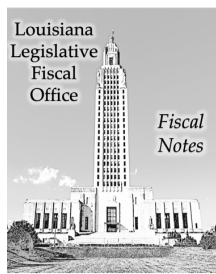
Proposed law provides for a civil fine of up to \$50,000 per act of violation for each day on a person determined to violate based on a ruling by the Commissioner of LDAF. The LFO presumes the potential revenue may accrue to LDAF due to the required ruling by the Commissioner, but this point is unclear as civil penalties generally accrue to local governing authorities. The number of individuals that may violate the proposed law and be assessed civil fines by the Commissioner of LDAF is speculative and indeterminable. Proposed law provides for a fine of \$2,500 to \$10,000 or imprisonment of 6 months to 5 years or both on a person convicted of selling cannabis without a retailer permit and the potential revenue will accrue to the local government entities. The number of individuals that may be convicted of selling cannabis without a retailer permit is speculative and indeterminable.

Senate
 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}

Alan M. Boxberger

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Staff Director



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CONTINUED EXPLANATION from page one:
EXPENDITURE EXPLANATION Continued from Page 1

The LFO anticipates LDAF will use the revenues from licensing cannabis production facilities to partially cover its anticipated costs in FY 22. However, LDAF 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.

	<u>FY 22</u>	<u>FY 23</u>	<u>FY 24</u>	<u>FY 25</u>	<u>FY 26</u>
Recurring					
Personnel Services*	\$522,337	\$924,891	\$936,375	\$948,089	\$960,037
Travel	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000
Operating Services	\$265,725	\$531,449	\$531,449	\$531,449	\$531,449
Professional Services	\$0	\$111,320	\$111,320	\$110,320	\$110,320
Total Recurring	\$813,062	\$1,592,660	\$1,604,144	\$1,615,858	\$1,627,806
One-time					
Lab Equipment	\$1,533,598				
Computer/Data	\$104,300				
Furniture	\$9,200				
Total One-Time	\$1,647,098	\$0	\$0	\$0	\$0
Total LDAF	\$2,460,160	\$1,592,660	\$1,604,144	\$1,615,858	\$1,627,806

LA Department of Revenue (LDR), Office of Alcohol and Tobacco Control (ATC) - ATC estimates SGR expenditures will increase by \$298,306 in FY 22. The proposed law requires ATC to issue 40 cannabis retailer permits. The LFO assumes all 40 retailers will be permitted and requires the ATC to immediately need staff, equipment, and vehicles in order to issue permits immediately. To the extent all 40 retailers are permitted, ATC anticipates needing four (4) ATC Agents (\$343,843 salary and related benefits) and two (2) Administrative Coordinator positions (\$99,082 salary and related benefits), for a total annual personal services cost of \$442,925 for the administration and enforcement of cannabis retailers. Also, ATC anticipates equipment costs of \$39,826 for each ATC agent. In FY 22, only six months of expenditures are anticipated. In subsequent fiscal years, this fiscal note assumes a 2% market rate adjustment in salaries and related benefits for staff and 12 months (total expenditures of \$522,577 in FY 23, \$454,329 in FY 24, \$466,076 in FY 25, and \$478,175 in FY 26). 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 positions. Alternatively, if consumable hemp activity expands dramatically, ATC may require additional resources over the estimate provided. To the extent these costs are not fully funded by permit revenues, additional budgetary resources may be needed.

	<u>FY 22</u>	<u>FY 23</u>	<u>FY 24</u>	<u>FY 25</u>	<u>FY 26</u>
Recurring					
Personnel Services*	\$218,654	\$442,925	\$454,329	\$466,076	\$478,175
One-time					
Equipment	\$79,652	\$79,652	\$0	\$0	\$0
Total ATC	\$298,306	\$522,577	\$454,329	\$466,076	\$478,175

*NOTE: LDAF and ATC estimate personnel services costs to increase 2% annually.


Department of Public Safety and Corrections - Public Safety Services - Based on the experience of other states with legalized recreational marijuana, Public Safety anticipates that legalizing the sale of cannabis at retail locations will have a significant indirect impact on lab expenses associated with testing impaired drivers for THC and testing the components of products found at illegal marijuana retailers and manufacturers. Public Safety anticipates needing two (2) Crime Lab Analysts positions and lab equipment (\$1.7 M in FY 2022 and annualized in future fiscal years) associated with increased lab testing. The LFO cannot corroborate that the provisions in the proposed law will result in an indirect expenditure exposure of this magnitude.

The proposed law authorizes the LDAF to collect a suitability fee that will be paid the Office of State Police to investigate applications for production facility licenses. Also, the proposed law authorizes State Police to charge ATC a reasonable processing fee for determining suitability including conducting a state and national criminal history background check and finger printing. ATC will use a portion of the \$2,500 application fee to reimburse the State Police any expenses related to suitability. The LFO anticipates State Police will use the fees cover its anticipated costs.

Louisiana District Attorneys Association (LDAA) - The proposed law may result in an indeterminable expenditure increase for LDAA. The proposed law creates a penalties ranging from misdemeanor to felony for a violation of the retailer permit requirements. LDAA reports that it cannot estimate the fiscal impact because it is unable to determine the number of these cases that would be charged under this measure.

Local Governmental Entities - The proposed law may result in an indeterminable increase in Local Funds expenditure to local governing authorities if a person is convicted of selling cannabis without a retailer permit and housed in local jails. The imprisonment term is at least 6 months to a maximum of 5 years for this misdemeanor offense.

<p><u>Senate</u></p> <p><input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}</p> <p><input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}</p>	<p><u>Dual Referral Rules</u></p>	<p><u>House</u></p> <p><input checked="" type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}</p> <p><input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}</p>
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