



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: S. 0137 Introduced on January 14, 2025
Subject: Hemp-Derived Cannabinoids
Requestor: Senate Agriculture and Natural Resources
RFA Analyst(s): Daigle, Gardner, and Wren
Impact Date: January 28, 2025

Fiscal Impact Summary

This bill creates a new Chapter 56 in Title 46 on the sale and distribution of products containing hemp-derived cannabinoids. This bill also creates new offenses dealing with the purchase and distribution of hemp-derived cannabinoid products and mandates that any violation of the new offenses is subject to a Class A misdemeanor. This bill requires the Department of Agriculture to enforce provisions of the new Chapter 56 of Title 46, to submit an annual report to the General Assembly describing its efforts, and to publish the report on the department's website. This bill also requires that producers and retailers of hemp-derived cannabinoid products have to obtain a license from the Department of Agriculture by January 1, 2025, or prior to the commencement of business, whichever is later. Licenses are \$500 for producers and \$250 per location for retailers. Licenses must be renewed annually. Additionally, this bill sets license conditions and eligibility requirements. This bill also authorizes the Department of Agriculture to issue, deny, or revoke licenses and to promulgate regulations for the new licenses. This bill makes it unlawful to manufacture, produce or sell hemp-derived cannabinoid products without a license, and any violations are subject to a Class A misdemeanor and products are subject to seizure and forfeiture. This bill also creates toxicity testing requirements for hemp-derived cannabinoid products. This bill amends the existing tobacco-free school campus policy in Chapter 1 of Title 59 to include hemp-derived cannabinoid products. Amendments to the tobacco-free school campus policy will take effect upon approval by the Governor and applies beginning with the 2025-2026 school year.

This bill may result in an increase in the number of circuit court cases and potentially the number of incarcerations, which may increase the workload of the court system and the Commission of Indigent Defense, the Commission on Prosecution Coordination, the Department of Corrections, and PPP. The potential increase in expenses for each agency will depend upon the increase in the number of cases and number of incarcerations. These agencies indicate that if this bill results in a significant increase in the workload, then an increase in General Fund appropriations may be requested.

The expenditure impact of this bill is pending, contingent upon a response from the Department of Agriculture.

This bill will have no expenditure impact on the S.C. Department of Education (SCDE) since it does not impose additional responsibilities on the agency.

This bill will have no expenditure impact on the state agency schools. The Governor’s School for Science and Mathematics, the Governor’s School for the Arts and Humanities, the Governor’s School for Agriculture at John de la Howe, the School for the Deaf and Blind, and the Wil Lou Gray Opportunity School indicate that any expenses to update the existing tobacco-free school campus policy to include hemp-derived cannabinoid products and to update signage can be managed with existing appropriations.

The local expenditure impact is undetermined beginning in FY 2025-26. The Revenue and Fiscal Affairs Office (RFA) surveyed the counties and contacted the Municipal Association of South Carolina (MASC) as to the potential expenditure impact of the bill and received a response from MASC and Horry County. MASC indicates that this bill may increase the number of cases tried in municipal courts and while the costs associated with hearing additional cases are partially recouped by fines collected through assessed penalties, the fines do not fully subsidize the cost burden of court proceedings to municipalities. Because the number of court cases due to this bill is unknown, the total expenditure impact on municipalities is undetermined. Horry County indicates that the police department is considering the use of roadside drug test kits for patrol officers which could increase costs for the county. Additionally, the county indicates that the creation of new misdemeanor offenses should not place a burden on the sheriff’s office or the detention center but will impact costs for magistrate courts. Based on this response, the expenditure impact for counties is undetermined.

The expenditure impact of this bill on local school districts will vary. SCDE surveyed the local districts and received responses from twenty-five districts. Sixteen districts indicate that the bill will have no impact or a minor impact to update the existing policy and for new signs. The remaining nine districts indicate that expenses will vary by a range of \$100 to \$24,000 per district to enforce the new law, for staff time to meet with parents regarding student punishments, and for new signage at all school facilities.

This bill will increase fees due to the new producer and retailer licenses. Licenses can be obtained for a fee of \$500 for producers and \$250 per location for retailers, are valid for one year, and may be renewed annually. The increase in fees will be used for the administration of this chapter. The impact of the increase to fees associated with producer and retailer licenses is pending, contingent upon a response from the Department of Agriculture.

This bill may result in an increase in the fines and fees collected in court due to the new Class A misdemeanor offenses. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, this bill may result in an increase to General Fund, Other Funds, and local funds revenues due to the increase in fines and fees collections in court.

Explanation of Fiscal Impact

Introduced on January 14, 2025

State Expenditure

This bill creates a new Chapter 56 in Title 46 on the sale and distribution of products containing hemp-derived cannabinoids. This bill makes it unlawful for a person to sell or distribute hemp-

derived cannabinoid products to a person who is under eighteen years old or to purchase such products on behalf of a person who is under eighteen years old. This bill also makes it unlawful for a person to persuade, entice, send, or assist someone under eighteen years old to purchase, acquire, receive, or attempt to purchase a hemp-derived cannabinoid product. Additionally, this bill makes it unlawful for someone to knowingly distribute samples of hemp-derived cannabinoid products on a public street, sidewalk, or park. This bill also makes it unlawful to sell or distribute hemp-derived cannabinoid products to someone without first obtaining proof of age. Further, this bill makes it unlawful for a person under the age of eighteen to use false identification to purchase, possess or receive hemp-derived cannabinoid products. Any product containing hemp-derived cannabinoids should be maintained behind the counter of a retail establishment in an area inaccessible to a customer. A violation of these provisions is a Class A misdemeanor. A person convicted of a Class A misdemeanor must be imprisoned not more than three years.

This bill requires the Department of Agriculture to enforce the new Chapter 56 in Title 46 including regular random, unannounced inspections at locations where hemp-derived cannabinoid products such are sold or distributed. The department must submit an annual report to the General Assembly describing its efforts to enforce the new chapter created in this bill, and the report must be published on the department's website.

This bill also requires that manufacturers, producers, and retailers must obtain a license from the Department of Agriculture by January 1, 2025, or prior to the commencement of business, whichever is later. The license fee is \$500 for producers or \$250 per location for retailers. This bill sets requirements for license holders, including consent to reasonable inspections, and outlines who is ineligible to obtain a license. Licenses are valid for one year and may be renewed annually. Revenue from licenses must be used to administer the new license requirements. This bill authorizes the Department of Agriculture to determine license requirements, deny or revoke licenses, and promulgate regulations for hemp-derived cannabinoid producer and retailer licenses. This bill makes it unlawful to manufacture, produce or sell hemp-derived cannabinoid products without a license, and any violations are subject to a Class A misdemeanor and products are subject to seizure and forfeiture.

This bill creates testing requirements for hemp-derived cannabinoid products and requires that a producer must contract with a third-party laboratory that is ISO 17025 accredited and registered with the United States Drug Enforcement Agency in order to test and obtain a certificate of analysis for each manufactured batch. This bill also authorizes the Department of Agriculture to promulgate regulations to specify pass/fail toxicity levels for products. The department must maintain and post on its website a registry of qualified testing laboratories and develop an application process for testing laboratories. This bill also sets expiration date label requirements for hemp-derived cannabinoid products.

This bill amends the existing tobacco-free school campus policy in Chapter 1 of Title 59 to include hemp-derived cannabinoid products. Amendments to the tobacco-free school campus policy will take effect upon approval by the Governor and applies beginning with the 2025-2026 school year.

There are currently no statutes in South Carolina law regarding hemp-derived cannabinoid products although it is illegal to possess or use marijuana with a THC content above 0.3 percent. Currently, hemp-derived cannabinoid products are legal in the U.S. pursuant to the United States Agriculture Improvement Act of 2018, otherwise known as the 2018 Farm Bill. The Act of 2018 removed hemp, defined as cannabis and derivatives of cannabis with no more than 0.3 percent THC on a dry weight basis, from the definition of marijuana in the Controlled Substances Act.¹

This bill may result in an increase in the number of circuit court cases and potentially the number of incarcerations, which may increase the workload of the court system and the Commission of Indigent Defense, the Commission on Prosecution Coordination, the Department of Corrections, and PPP. The potential increase in expenses for each agency will depend upon the increase in the number of cases and number of incarcerations. These agencies indicate that if this bill results in a significant increase in the workload, then an increase in General Fund appropriations may be requested. This bill creates new misdemeanor Class A offenses. As these are new offenses, there is no data to determine the number of new cases that may be heard in circuit court.

Department of Agriculture. This bill creates new responsibilities for the Department of Agriculture. A determination of the bill's fiscal impact is pending, contingent upon a response from the agency.

S.C. Department of Education. This bill will have no expenditure impact on SCDE since it does not impose additional responsibilities on the agency.

State Agency Schools. This bill will have no expenditure impact on the state agency schools. The Governor's School for Science and Mathematics, the Governor's School for the Arts and Humanities, the Governor's School for Agriculture at John de la Howe, the School for the Deaf and Blind and the Wil Lou Gray Opportunity School indicate that any expenses to update the existing tobacco-free school campus policy to include hemp-derived cannabinoid products and to update signage can be managed with existing appropriations.

State Revenue

This bill will increase fees due to the new producer and retailer licenses beginning in FY 2026-26. Licenses can be obtained for a fee of \$500 for producers and \$250 per location for retailers, are valid for one year, and may be renewed annually. Revenue collected from the fees must be used exclusively for the administration of the new licenses.

This bill may result in an increase in the fines and fees collected in court due to the new Class A misdemeanor offenses. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, this bill may result in an increase to General Fund and Other Funds revenue due to the change in the fines and fees collected in court.

¹ U.S. Food and Drug Administration, *Testimony of Amy Abernethy, MD, PhD., Principal Deputy Commissioner – Office of the Commissioner Before the United States Senate on Hemp Production and the 2018 Farm Bill*, Retrieved January 23, 2025, <https://www.fda.gov/news-events/congressional-testimony/hemp-production-and-2018-farm-bill-07252019>.

Local Expenditure

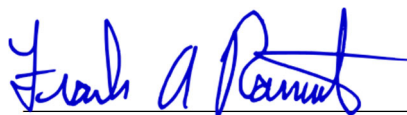
This bill amends the existing tobacco-free school campus policy in Chapter 1 of Title 59 to include hemp-derived cannabinoid products. The bill specifies that nothing in the bill prohibits a local school administrative unit from adopting and enforcing a more restrictive policy on the use of tobacco or hemp-derived cannabinoid products. This section of the bill takes effect upon approval by the Governor and applies beginning with the 2025-2026 school year.

SCDE surveyed the local school districts and received responses from twenty-five districts. Sixteen districts indicate that the bill will have no impact or a minor impact to update the existing policy and for signs. The remaining nine districts indicate that expenses will vary by a range of \$100 to \$24,000 per district to enforce the new law, for staff time to meet with parents regarding student punishments, and for new signage at all school facilities.

RFA surveyed the counties and contacted MASC as to the potential expenditure impact of the bill and received a response from MASC and Horry County. MASC indicates that the bill creates new penalties for misdemeanor violations of provisions related to hemp-derived cannabinoids, which may result in an increase in the number of cases tried in municipal courts. While the costs associated with hearing these cases may be recouped in part by fines collected through assessed penalties, the fines often do not fully subsidize the cost burden of court proceedings to municipalities. Therefore, the expenditure impact for municipalities is undetermined. Horry County indicates that while the bill would not change the protocol used by the police department to handle hemp-related matters, the department is considering the use of roadside drug test kits for patrol officers, which could increase costs for the county. The county also indicates the creation of new misdemeanor offenses should not place a burden on the Sheriff's Office or the detention center but will impact costs for magistrate courts, the solicitor's office, and the public defender's office. As there is no data available to estimate the increase in costs for both the police department and the county court system, the local expenditure impact is undetermined.

Local Revenue

This bill may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, this bill may result in a change to local revenue due to the increase in fines and fees collections in court.



Frank A. Rainwater, Executive Director