

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1749-01
Bill No.: HB 800
Subject: Drugs and Controlled Substances; Health Care; Licenses - Miscellaneous;
 Agriculture and Animals
Type: Original
Date: February 20, 2015

Bill Summary: This proposal establishes the Missouri Compassionate Care Act which provides for the licensure of medical cannabis centers and cultivation and production facilities to provide medical cannabis to qualifying patients.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	Unknown to (Unknown)	Unknown to (Unknown greater than \$31,192)	Unknown to (Unknown greater than \$42,024)
Total Estimated Net Effect on General Revenue	Unknown to (Unknown)	Unknown to (Unknown greater than \$31,192)	Unknown to (Unknown greater than \$42,024)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Medical Cannabis License Cash*	\$0	\$0	\$0
School District Trust	Unknown	Unknown	Unknown
Conservation	Unknown	Unknown	Unknown
Soil and Water and Parks	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

* Income and expenditures net to \$0.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

Oversight assumes this proposal will have an unknown impact on revenues deposited in the General Revenue Fund as well as several other state funds that will receive moneys from the taxes collected on the sales of medical marijuana and related products. A positive unknown impact is being shown for each of these funds, including local governments that presently have local sales taxes in place for the taxes collected. Oversight also assumes this proposal will have unknown impact against the General Revenue Fund due to the costs of implementation of various provisions by the Department of Health and Senior Services.

Oversight notes the Division of Alcohol and Tobacco Control (A&TC), within the Department of Public Safety, will have no General Revenue monies appropriated or expended for the operation of sections 195.900 to 195.985, but as the designated state licensing authority is required to collect application fees and administrative penalties and issue state licenses for medical cannabis centers and medical cannabis cultivation and production facilities. All money collected by the A&TC is to be deposited in the Medical Cannabis License Cash Fund (Fund). The amounts of the fees collected are to reflect the actual direct and indirect costs of the A&TC in the administration and enforcement of sections 195.900 to 195.985. Therefore, Oversight assumes costs will equal revenues deposited into this fund and the net effect on the Medical Cannabis License Cash Fund will be \$0. For FY 2016, Oversight assumes DPS will absorb costs associated with the proposal until amounts in the Fund are sufficient to cover the costs incurred.

Officials from the **Office of Administration , Division of Budget and Planning (B&P)** provide the following information regarding this proposal:

Section 195.939.2 requires late renewal applications to include a late renewable fee of \$500 payable to the local licensing authority. This will increase total state revenues and may impact the state's Article X, Section 18(e) calculation by an unknown amount.

Section 195.948.3 requires all licensed persons under the Act to collect sales tax on all sales made under the licensing activities. This will increase total state revenues and impact the state's Article X, Section 18(e) calculation. B&P defers to the Department of Revenue for an estimate of revenues generated by the taxes on these products.

ASSUMPTION (continued)

Section 195.960.7 states medical cannabis-infused products shall not be exempt from state or local sales tax. This will increase total state revenues and impact the state's Article X, Section 18(e) calculation. B&P defers to the Department of Revenue for an estimate of revenues generated by the taxes on these products.

Section 195.963.2 requires the Department of Public Safety-Division of Alcohol and Tobacco Control to establish fees for various types of applications, licenses, notices, or reports required to be submitted. This will increase total state revenues and impact the state's Article X, Section 18(e) calculation. B&P defers to the Department of Public Safety, Division of Alcohol and Tobacco Control for an estimate of revenues generated by the fees.

Section 195.969 authorizes local licensing authorities to collect an application fee and licensing fees as determined by the authority. This will increase total state revenues and may impact the state's Article X, Section 18(e) calculation by an unknown amount.

Section 195.972.3 authorizes a licensee to pay a fine in lieu of a having a license suspended due to violations of the proposal by the licensee or agents and employees of the licensee. This will impact total state revenues but will not impact the state's Article X, Section 18(e) calculation.

Section 195.981.13 authorizes the Department of Health and Senior Services to collect fees from patients who apply to the medical cannabis program for a cannabis registry identification card. This will increase total state revenues and impact the state's Article X, Section 18(e) calculation. B&P defers to the Department of Health and Senior Services for an estimate of revenues generated by the fees.

Officials from the **Cole County Sheriff's Department** state the active ingredients in marijuana are available, pharmaceutically, now. The fiscal impact of this proposal, whether marijuana is made legal for medicinal purposes or for general use, is extremely high. Licensing of grow sites and distribution sites, control of the product, and additional medical training of physicians all contribute to the cost of the proposal. Additional criminal justice issues must be evaluated as there will be a need for additional inspectors and enforcement agents. It is not currently possible to estimate the fiscal impact of this proposal.

Oversight will assume an unknown negative fiscal impact on local law enforcement agencies for fiscal note purposes. In addition, local governments may see an increase in sales tax revenue if they have local sales taxes in place. Therefore, Oversight will range the impact on local governments from Unknown positive (sales tax revenue) to Unknown costs.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state there are currently 23 states and the District of Columbia that now allow for comprehensive public medical marijuana and cannabis programs with an additional 11 states allowing for limited situation medical use of low THC (Tetrahydrocannabinol), high cannabidiol (CBD) products (National Conference of State Legislatures). As many of these states have relatively recently allowed for legal medical marijuana possession and use, there is limited information on the impacts within the criminal justice system. A full analysis is not possible given current time frames, but a preliminary survey has found several recent studies attempting to discern the effects of these laws.

Chu (2014) found that similar medical marijuana laws (MML) were related to a 15-20% increase in marijuana arrests in adult males, and Alford (2014) found that allowances for marijuana dispensaries increased property crime rates by 8% and robbery rates by 11%. Conversely, Alford also found that home cultivation allowance may have decreased robbery by 10%. Choi (2014) found that MMLs were associated with a 12% increase in other drug use but allowing home cultivation was related to a 13% decrease in driving under the influence of drugs. Morris et al. (2014) found that MMLs did not exacerbate rates of major or violent crimes. However, Pacula et al. (2014) suggested that some details of MMLs, particularly legal protection of dispensaries and home cultivation, can lead to greater marijuana use and abuse among adults. The authors also found relationships to increased alcohol use and alcohol-related driving fatalities. The link with increased drinking was also found by Wen et al. (2014), but they found no evidence of increased use of other substances.

Results of studies at this time show conflicting results on the criminal impacts of current MMLs. However, with the increased licensing and regulation there are also increased possibilities of secondary crimes through false physician recommendations, non-compliance in registration, illegal possession, vehicular infractions or injury, and theft. While many of these violations may carry only municipal or licensing-level penalties, some would ultimately fall under felony charges.

Current laws provide for class C felony penalties for possession (Section 195.202) and class B felony penalties for distribution and production of controlled substances (Section 195.211). Considering additional increases in related violations, proposed changes in this proposal are expected to result in one new class B felony serving two years in prison and five years parole, one class C felony serving one year in prison with four years parole, and two new probations serving three years. The total impact is estimated to be 3 additional offenders in prison and 15 on field supervision.

The FY 2014 average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender.

ASSUMPTION (continued)

The DOC would assume this legislation will result in the following long term costs (includes 2% annual inflation):

FY 2016 (10 months)	\$14,263
FY 2017	\$31,192
FY 2018	\$42,024
FY 2019	\$48,082
FY 2020	\$54,371
FY 2021	\$58,184
FY 2022	\$62,130
FY 2023	\$63,390
FY 2024	\$64,676
FY 2025	\$65,987

Oversight assumes FY 2016 (10 months) costs to be absorbable by the DOC.

Officials from the **Office of State Treasurer (STO)** state in section 195.963(4), a Medical Cannabis Program Account is created within the Medical Cannabis License Cash Fund. The state accounting system cannot segregate monies within a fund. If part of the receipts need to be segregated, a separate fund will have to be established.

In sections 195.966 and 195.972(4) and 195.981(13), the STO assumes the Division of Alcohol and Tobacco Control (A&TC) and the Department of Health and Senior Services (DHSS) will deposit all fees and fines received according to existing state account procedures and prepare the cash receipt documents to post the deposits to the appropriated fund. If this is not the case, the STO will require 1 FTE to perform this function.

Oversight assumes the A&TC and the DHSS will deposit fees and fines according to state procedures and prepare the appropriate documents. Oversight assumes the STO will not require an FTE to perform this function.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of Administration, Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if similar bills pass resulting in more cases, there could be a fiscal impact.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Department of Agriculture**, the **Department of Elementary and Secondary Education**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Social Services**, the **Department of Public Safety, Division of Fire Safety**, the **Joint Committee on Administrative Rules**, the **Missouri Office of Prosecution Services**, the **Office of State Public Defender**, the **City of Kansas City**, **St. Louis County**, the **Springfield Police Department**, the **Carondelet Leadership Academy**, the **Kansas City Public Schools** and the **Malta Bend School District** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
(§§195.202 - 192.985)			
<u>Income</u> - Increase in sales tax revenues	Unknown	Unknown	Unknown
<u>Costs</u> - DOC			
Increase in incarceration and probation/parole costs	\$0	(\$31,192)	(\$42,024)
<u>Costs</u> - DHSS and other state agencies			
Costs associated with implementing the provisions of this proposal	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown greater than \$31,192)</u>	<u>Unknown to (Unknown greater than \$42,024)</u>
 MEDICAL CANNABIS LICENSE CASH FUND			
<u>Income</u> - DPS-A&TC			
License fees and penalties revenue	Unknown	Unknown	Unknown
<u>Costs</u> - DPS-A&TC			
Program expenditures	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE MEDICAL CANNABIS LICENSE CASH FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
 SCHOOL DISTRICT TRUST FUND			
<u>Income</u> - Increase in sales tax revenues	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON THE SCHOOL DISTRICT TRUST FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
CONSERVATION FUND			
<u>Income</u> - Increase in sales tax revenues	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON THE CONSERVATION FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
SOIL AND WATER AND PARKS FUNDS			
<u>Income</u> - Increase in sales tax revenues	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON SOIL AND WATER AND PARKS FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2016 (10 Mo.)	 FY 2017	 FY 2018
LOCAL GOVERNMENTS - CITIES, COUNTIES, AND LOCAL LAW ENFORCEMENT			
<u>Income</u> - Increase in local sales taxes collected	Unknown	Unknown	Unknown
<u>Costs</u> - Local Law Enforcement Increased costs related to medicinal cannabis	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - LOCAL LAW ENFORCEMENT	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
 <u>FISCAL IMPACT - Small Business</u>			

This proposal may have an impact on small businesses that provide products used by consumers who will obtain medical use of cannabis permits.

FISCAL DESCRIPTION

This proposal creates the Missouri Compassionate Care Act. The proposal provides a licensure process for medical cannabis centers and medical cannabis cultivation and production facilities, which may possess, cultivate, and dispense cannabis to assist patients with certain debilitating medical conditions. A business must hold both a medical cannabis center license and a medical cannabis cultivation and production facility license. In addition, the business must have local licenses in order to be issued state licenses, and needs state and local licenses to engage in the activities provided under the proposal. The licenses are valid for two years.

A medical cannabis center license allows the licensee to sell medical cannabis that was grown in the licensee's cultivation and production facility and medical cannabis-infused products. The cannabis for medical cannabis-infused products does not need to be grown in its facility, but only cannabis-infused products produced in a licensee's cultivation and production facility may be sold by the licensee's medical cannabis center. A licensee may not purchase more than 30% of its total on-hand inventory from other licensees and may not sell more than 30% of its inventory to other licensees.

Under this proposal, the Division of Alcohol and Tobacco Control is designated as the state licensing authority. This proposal provides that the division may only employ one full-time employee for each 10 medical cannabis centers that are licensed or applying for licensure, except additional temporary staff may be employed to conduct background checks during the first year of implementation.

The division is required to establish rules for the regulation and control of the cultivation, manufacture, distribution, and sale of medical cannabis, except the rules may not fix prices. Also, the division must develop forms, licenses, identification cards, and applications necessary for the administration of the bill, and must report each year to the Governor. By January 1, 2016, the division must ask the federal Drug Enforcement Administration to consider rescheduling medical cannabis from a Schedule I controlled substance to a Schedule II controlled substance.

This proposal allows a municipality or county to designate a local licensing authority that may issue licenses to medical cannabis centers and cultivation and production facilities. Applicants for a local license must file plans and specifications for the interior of the building or a plot plan and a detailed sketch if the building does not exist yet. The licensing authority must hold public hearings on the licenses. This proposal provides requirements for those hearings. A local licensing authority or applicant for a local license may ask the division to conduct a concurrent review of the license application.

FISCAL DESCRIPTION (continued)

The local licensing authority may refuse to issue a license for good cause, subject to judicial review. This proposal specifies factors the local licensing authority may consider before issuing a decision on an application. The decision must be issued within 30 days after the public hearing or completion of the application investigation. After approval, a license may not be issued until the building is ready for occupancy, is equipped with the materials needed to comply with the proposal, and has been inspected by the local licensing authority. The local licensing authority must notify the state licensing authority of approvals.

Under this proposal, the division may issue up to 30 state licenses for medical cannabis centers and 30 state licenses for medical cannabis cultivation and production facilities. The licenses must be geographically disbursed to provide statewide access. An applicant for a medical cannabis center license may be approved for two additional licenses that do not count toward the statewide limit if necessary to provide statewide access.

This proposal specifies requirements for applicants of a state license. Applicants must be at least 21 years of age and may not be a licensed physician making patient recommendations. This proposal specifies when the division may deny an application for state licensure and provides a hearing before the Administrative Hearing Commission to applicants who have been denied. The division must complete a fingerprint-based criminal background check on applicants.

This proposal prohibits the division and the local licensing authority from issuing a license if the location is the same as or within 1,000 feet of a location that has previously been denied, it has not been established if the applicant is entitled to possession of the premises, if the location is in an area not zoned for such activities, or if the building in which medical cannabis is to be sold is within 1,000 feet of a school, an alcohol or drug treatment facility, college or seminary campus, or a residential child care facility.

Counties and municipalities may enact reasonable regulations or restrictions on licenses of medical cannabis centers and cultivation and production facilities based on zoning, health, safety, and public welfare laws.

This proposal requires a medical cannabis center or cultivation and production facility to provide the division with certain information regarding owners, officers, and employees of the licensee, and anyone with a direct or indirect financial interest in the licensee, including fingerprints for criminal background checks. In addition, this proposal places limitations on licensees in regard to transfers of ownership and management and movement of locations.

FISCAL DESCRIPTION (continued)

The division must notify the licensee of the expiration date 90 days prior to the expiration of the license. If complaints have been filed against licensee or there is a history of violations, the local licensing authority may hold a hearing on a license renewal. This proposal provides requirements for licensees to renew their licenses. A license may be revoked or not renewed if it is determined that the licensed premises have been inactive without good cause for a year. The licensees must collect sales tax on all sales made under the licensed activities.

This proposal allows state-chartered banks and credit unions to loan money for the operation of a licensed business. Labeling and packaging, testing, storage, and processing requirements for cannabis and cannabis-infused products are provided under this proposal. This proposal prohibits certain relationships between testing laboratories and licensees. Also, provided are requirements for the sanitation and cleanliness of the facilities.

This proposal creates the Medical Cannabis License Cash Fund, which consists of all money collected by the division under this proposal. It is a dedicated fund to be used for the administration of the proposal. Also created is an account within the fund for moneys collected by the Department of Health and Senior Services that is to be used for the issuance of registry identification cards to patients and caregivers for the use of medical cannabis. Applicants for a medical cannabis center and cultivation and production facility license must pay a fee of \$12,500 for each license. The division sets the fees for licenses renewals, applications to change location or transfer ownership, and testing facility licenses, but the fees must reflect the actual costs to the division in the administration and enforcement of the program.

In addition, the division must establish a fee to be paid at the time of service of any subpoena upon the division plus a fee for meals and miles for state officers and employees billing in response to a subpoena. The local licensing authorities may establish licensing fees that do not exceed 10% of the state's fee. This proposal provides procedures for sanctions against licensees, including revocation and suspension. The procedures require notice and an opportunity for a hearing. Requirements for record-keeping and procedures for auditing and inspecting the licensees are also provided.

This proposal creates several Class A misdemeanors relating to medical cannabis. This proposal allows a licensee that has reasonable cause to believe a person is exhibiting a fraudulent patient registry identification card in an attempt to obtain medical cannabis to confiscate the card.

Under this proposal, the Department of Health and Senior Services must establish rules to ensure that patients are not subject to criminal prosecution for their use of medical cannabis and are able to establish an affirmative defense to their use of medical cannabis, prevent persons who do not

FISCAL DESCRIPTION (continued)

suffer from legitimate debilitating medical conditions from selling, possessing, producing, using, or transporting cannabis in violation of state and federal laws, establish a confidential registry of patients who have applied for and are entitled to receive a registry identification card and develop application forms for the cards, verify medical information of applicants for a registry card, and establish a waiver process to allow a homebound patient who is on the registry to have a primary caregiver transport the patient's medical cannabis from a licensed medical cannabis center to the patient, among other rules.

This proposal allows licensed physicians, who have a relationship with a patient seeking to have access to medical cannabis, to certify that the patient has a debilitating medical condition and may benefit from the use of medical cannabis. This proposal specifies a list of debilitating medical conditions that allow a patient, who meets the other requirements of the proposal, to receive a registry identification card to access medical cannabis. Any Missouri resident may petition the department to add conditions or treatments to the statutory list of debilitating medical conditions.

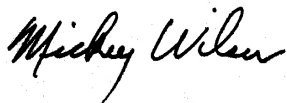
This proposal prohibits physicians from offering any form of pecuniary remuneration to a primary caregiver, distributor, or any other provider of medical cannabis, offering a discount or any other thing of value to a patient who uses or agrees to use a particular primary caregiver, distributor, or other provider of medical cannabis to procure medical cannabis, examining a patient at a location where medical cannabis is sold or distributed, or holding an economic interest in an enterprise that provides or distributes medical cannabis. The department must conduct a hearing when there is reasonable cause to believe a physician has violated any of the above. Upon a finding of unprofessional conduct by the State Board of Medical Examiners or a finding of a violation by the department, the department must restrict a physician's authority to recommend the use of medical cannabis.

This proposal also places restrictions on patients and primary caregivers, including limitations on where medical cannabis may be used or possessed. Patients and primary caregivers must have their registry identification cards in their possession at all times they are in possession of any form of medical cannabis and produce the cards upon request of a law enforcement officer. The department may deny a patient's application for a registry identification card or revoke the card if the department determines that the physician who diagnosed the patient's debilitating medical condition, the patient, or the primary caregiver violated the statutes or department's rules. A registry identification card is valid for one year. This proposal specifies fees that the department may establish. The division may suspend a license, and the department may suspend a registry identification card, pending further proceedings to protect the public health, safety, or welfare.

This legislation is not federally mandated, would not duplicate any other program. It is not known whether additional capital improvements or rental space would be required.

SOURCES OF INFORMATION

Office of Attorney General
Department of Agriculture
Department of Elementary and Secondary Education
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Corrections
Department of Social Services
Department of Public Safety -
 Division of Fire Safety
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Office of Administration -
 Administrative Hearing Commission
 Division of Budget and Planning
Office of State Courts Administrator
Office of Secretary of State
Office of State Public Defender
Office of State Treasurer
City of Kansas City
St. Louis County
Cole County Sheriff's Department
Springfield Police Department
Carondelet Leadership Academy
Kansas City Public Schools
Malta Bend School District



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