

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT**

LS 6348
BILL NUMBER: HB 1332

NOTE PREPARED: Dec 5, 2024
BILL AMENDED:

SUBJECT: Cannabis.

FIRST AUTHOR: Rep. Johnson B
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill establishes a procedure for the lawful production and sale of cannabis in Indiana. It makes conforming amendments. The bill also makes an appropriation.

Effective Date: July 1, 2025.

Explanation of State Expenditures: *Summary* - The bill could increase state costs by between \$1.1 M and \$1.7 M in FY 2026 and between \$680,000 and \$1.2 M in FY 2027 for the Cannabis Commission (commission) and the Department of State Revenue (DOR).

The bill will have an indeterminate, but minimal, impact on the number of commitments to the Department of Correction (DOC) for felony violations as it removes marijuana from the list of controlled substances (eliminating offenses for possession and dealing), but also adds new felony offenses.

Additional Information - Marijuana is federally classified as a Schedule I controlled drug with no medically indicated uses. Future federal responses to state initiatives is unknown although 14 states have comprehensive medical marijuana programs and 24 states have combined adult and medical use regulatory programs.

Cannabis Commission: In the initial years, the commission could incur annual state expenditures between \$580,200 and \$1 M to establish and operate the commission. After an indeterminate implementation period, the commissions's total costs will depend on the number of employees needed to regulate cannabis as prescribed in the bill. The costs are appropriated from the state General Fund by the bill.

The cost range was estimated using relevant staff positions and administrative costs in other state regulatory agencies and divisions of state agencies with regulatory functions. The higher estimate includes a superintendent position (a position that is hired at the discretion of the commission). Total regulatory expenses are determined by the overall enforcement activities of the agency, the number of regulated entities, the complexity of items to be regulated, and the number of facilities to be inspected. Ultimately, the number of regulated entities under this bill may increase over time leading to increased expenditures by the

commission for future years.

Cannabis Excise Tax: The DOR would incur significant software-related costs and would need to hire additional staff to implement the bill's provisions. The DOR's expenses for implementing the Cannabis Excise Tax and Sales Tax on cannabis would include first-year costs between \$540,000 and \$675,000 and ongoing annual costs between \$100,000 and \$200,000.

Penalty Provisions: The overall impact of the bill on the number of offenders committed to DOC facilities is potentially minor. While the number of offenders who may be committed to a DOC facility (as a result of the new felony offenses established in the bill) is indeterminate, the number of offenders committed to DOC facilities for marijuana dealing and possession each year averaged only 27 individuals between FY 2020 and FY 2024. The majority of cases where a marijuana charge is listed as the maximum convicted charge are disposed as misdemeanors.

Explanation of State Revenues: *Summary* - Revenue to the state General Fund is estimated to increase between \$41.9 M and \$82.1 M per year from Sales Taxes. Also, the bill establishes the nonreverting Cannabis Regulation Fund which could receive between \$60.4 M and \$118.5 M per year from the Cannabis Excise Tax and permit fee revenue.

The addition of new infractions, misdemeanors, and felonies, as well as the decriminalization of marijuana (including hash oil and hashish), will have an indeterminate overall impact on the state General Fund (from court fees and infraction judgements) and the Common School Fund (from criminal fines).

Additional Information -

Excise and Sales Taxes: Significant revenue from the Cannabis Excise Tax and Sales Tax could potentially be collected beginning in FY 2026. However, the timing of revenue collections will depend on the length of time necessary to implement the cannabis regulatory program. The following table summarizes the estimated revenue that could be collected when the program is fully implemented.

Estimated Revenue Upon Full Implementation (in millions)		
<u>Revenue Source</u>	<u>Low Estimate</u>	<u>High Estimate</u>
Sales Tax	\$41.9	\$82.1
Excise Tax	\$59.9	\$117.2
Permit Fees	\$0.5	\$1.3

All revenue from the Cannabis Excise Tax will be deposited in the Cannabis Regulation Fund. Sales Tax revenue is deposited in the state General Fund (99.838%), Commuter Rail Service Fund (0.131%), and Industrial Rail Service Fund (0.031%).

The bill establishes the Cannabis Excise Tax at a rate of 10% of the retail price of cannabis. The excise tax revenue could potentially generate an estimated \$59.9 M to \$117.2 M in the first full year of regulated cannabis sales. Before the cannabis program is fully implemented, a lesser but potentially significant amount of revenue could be collected. The 7% state Sales Tax would also apply to sales of cannabis. The Sales Tax

revenue increase could be approximately \$41.9 M to \$82.1 M in the first full year of sales.

The estimated potential sales revenue is based on retail sales of cannabis and revenue collections in states that have implemented programs permitting and taxing both medical cannabis and adult-use cannabis, adjusted for marijuana use percentage and population in each state and estimated cross-border sales. A review of 21 states found that the average time to implement a medical marijuana program is 29 months. If Indiana's implementation time is similar, revenue collection may begin in FY 2028, and the first full year of collections may be FY 2029.

Permits, Fees, and Fines: Permit fees and civil penalties imposed by the commission will increase revenue to the Cannabis Regulation Fund by a potentially significant amount. New programs such as those in Michigan or Illinois received between \$0.5 M and \$1.3 M from active licenses. [The permit fee revenue will increase as the program matures.] The application and license fees reviewed included growers, processors, dispensaries, testing laboratories, transportation providers, as well as identification cards for patients and caregivers. Individuals will be allowed to grow cannabis for personal use without permit fees. Nonrefundable applications are required in an amount determined by the commission.

Cannabis grower permittees may have a license revoked (or not renewed) and a civil penalty imposed of up to \$2,500 for violation of a permit requirement, permit term or condition, or a rule related to the growing of cannabis. Additionally, the commission may assess a civil penalty for violations of the law by any permittee up to \$50,000. A permit applicant must post a \$15,000 surety bond payable to the state, and the commission may recover between \$250 and \$500 for violations, or up to the full amount for failure to pay taxes or fees.

Fee Type	Permit Fee (refundable)
Integrated Permits	\$1 M
Grower	Based on cannabis canopy square footage, ranging from \$30,00 to \$200,000
Processor	\$30,000
Transport Carrier	\$5,000
Retailer (269 allowed)	\$1,000

Cannabis Regulation Fund: If there is money left after paying commission expenses, 20% goes to the Indiana Department of Health (together with the Department of Education) for a youth cannabis abuse prevention and education program, 25% goes to the Indiana Department of Health for use by the Division of Mental Health and Addiction, and 25% goes to the State Police Department. [The rest is distributed to local units, see *Explanation of Local Revenue.*]

Penalty Provisions: The bill will have an indeterminate impact on revenue from court fees, infraction judgments, and criminal fines due to the elimination and creation of offenses, as well as providing or expanding the defenses for violations of operating a vehicle, motorboat, or other equipment while under the influence of a controlled substance, if the controlled substance is marijuana and the person is not intoxicated (Class C misdemeanors and felony enhancements). The removal of marijuana offenses for possession and dealing marijuana and for dealing in paraphernalia will lower the number of these charges, but not necessarily the number of cases. The majority of cases listing a marijuana offense include multiple other

higher level charges. Therefore, many of these cases may still exist and be disposed for other offenses.

Additionally, the bill adds several new offenses, including Level 6 felonies for dealing in mislabeled THC hemp extract, growing or selling cannabis without a permit, and other cannabis permit violations. The bill adds Class A and Class B misdemeanors regarding the transporting of cannabis, providing cannabis to a person under 21 years old (with a Level 6 felony enhancement for serious bodily injury or death), and other cannabis violations. The bill also adds Class C infractions and Class B misdemeanors for furnishing cannabis to a person under 21 years old, for certain individuals allowing or taking a person under 18 years old to a cannabis retailer or other location where cannabis is sold, and county vendors spending money to promote a public question.

The amount of court fees deposited varies depending on whether the case is filed in a court of record or a municipal court. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Explanation of Local Expenditures: *Public Questions:* Counties may hold public questions on permitting cannabis retailers within the county either during a regular primary or general election or through a special election.

Penalty Provisions: The bill will have an indeterminate impact on counties for public defense expenses and the pre- and post-trial jail confinement due to the elimination of marijuana offenses and the addition of other offenses, as prescribed in the bill. The average cost per day is approximately \$64.53 based on the per diem payments reported by U.S. Marshals to house federal prisoners in 11 county jails across Indiana during CY 2021.

Explanation of Local Revenues: *Cannabis Regulation Fund:* The bill will distribute 15% of money remaining in the Cannabis Regulation Fund at the end of the year to county prosecuting attorneys where retail facilities are allowed and 15% to cities, towns, and counties that have cannabis growing, processing, or retail facilities.

Penalty Provisions: The bill will have an indeterminate impact on the number of court actions due to the elimination of marijuana offenses and the addition of other offenses. If fewer or additional court actions occur and guilty verdicts are entered, revenue to certain local units may be impacted. The amount of court fees deposited varies depending on whether the case is filed in a court of record or a municipal court. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

State Agencies Affected: Department of State Revenue; Department of Correction; Indiana Department of Health; Department of Education.

Local Agencies Affected: Courts with criminal jurisdiction; prosecuting attorneys.

Information Sources: U.S. Substance Abuse and Mental Health Services Administration; National Survey on Drug Use and Health, December 2020; Budget data for Indiana Gaming Commission and Alcohol and Tobacco Commission; U.S. Census Bureau, Annual Estimates of the Resident Population by Single Year of Age and Sex; Indiana Office of Court Services 2022 Caseload Statistics and Revenue downloads; Indiana Supreme Court Abstracts of Judgment;

State program websites and contacts available from LSA upon request.

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