

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

LS 6461
BILL NUMBER: SB 113

NOTE PREPARED: Dec 6, 2024
BILL AMENDED:

SUBJECT: Cannabis Regulation.

FIRST AUTHOR: Sen. Pol
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill permits the use of cannabis by: (1) a person at least 21 years of age; and (2) a person with a serious medical condition as determined by the person's physician.

Adult Use Cannabis Excise Tax: The bill establishes the Adult Use Cannabis Excise Tax, and requires a retailer to transfer the tax to the Department of State Revenue (DOR) for deposit in the state General Fund. The bill also exempts veterans from payment of the sales tax on medical or adult use cannabis.

Program: The bill establishes a cannabis program (program) to permit the cultivation, processing, testing, transportation, and sale of cannabis by holders of a valid permit.

Indiana Cannabis Commission and Advisory Committee: The bill establishes the Indiana Cannabis Commission (ICC) as a state agency to oversee, implement, and enforce the program, and establishes the ICC Advisory Committee to review the effectiveness of the program.

Distribution and Labeling: The bill requires that permit holders take steps to prevent diversion of cannabis to unauthorized persons. It requires that cannabis and cannabis products be properly labeled, placed in child resistant packaging, and tested by an independent testing laboratory before being made available for purchase. The bill also prohibits packaging cannabis in a manner that is appealing to children.

Research: The bill authorizes research on cannabis in accordance with rules set forth by the ICC.

Expungement: The bill establishes a procedure for the expungement of a cannabis related conviction if the act constituting the conviction becomes legal.

The bill makes conforming amendments.

Effective Date: July 1, 2025.

Explanation of State Expenditures: *Summary* - The bill could increase state costs by between \$1.3 M and

\$2.1 M in FY 2026 and between \$590,000 and \$930,000 in FY 2027 for the Cannabis Commission (commission) and the Department of State Revenue (DOR).

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

Indiana Cannabis Commission and Advisory Committee: In the initial years, the commission could incur state expenditures totaling between \$747,000 and \$1.4 M in FY 2026 to establish and operate the commission and an electronic database to track information concerning cannabis. Ongoing costs starting in FY 2027 are estimated to be between \$480,000 and \$715,000. The cost of the advisory committee will depend on the budget established by the Legislative Council. Recently, budgets for committees of similar size are estimated at \$13,500 per interim.

The estimates above include developing a new data base estimated to cost between \$300,000 and \$750,000 in initial costs, with ongoing annual estimated costs of \$30,000 to \$75,000 plus licensing fees. Cost for a new data base varies based on multiple factors, including but not limited to: the amount of data to be collected, authenticating mechanisms, data security measures, and software licensing.

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 may be at least partially offset with fees established by the commission. 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. Total regulatory expenses are determined by 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 in future years.

Adult Use Cannabis Excise Tax: The Department of Revenue (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 bill exempts most individuals or organizations that are substantially in compliance with the requirements of the comprehensive program from criminal penalties concerning marijuana. This would have little or no effect on the future offender population of the Department of Correction (DOC) since there were a total of only fifteen individuals committed to DOC facilities for possession of marijuana as a Level 6 felony (listed as the maximum convicted charge) between FY 2020 and 2024.

Individuals committed to the DOC for dealing marijuana as felony convictions were not included since felony enhancements only apply if the person has a prior conviction or has at least 30 grams, and the bill limits an adult cannabis user from possessing more than one ounce (about 28.3 grams) in a 30-day period, so these charges could still be filed.

Explanation of State Revenues: *Summary* - Revenue to the state General Fund is estimated to increase between \$46.6 M and \$92.6 M in FY 2026 and \$50.8 M and \$101.7 M in FY 2027 from Sales and Excise Taxes and permit fees.

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 -

Adult Use Cannabis Excise Tax: The bill establishes the Adult Use Cannabis Excise Tax, effective July 1, 2025. In FY 2026, the tax rate would be 1% of the retail price of cannabis (excluding medical cannabis). The rate would increase to 2% in FY 2027 and 3% beginning in FY 2028. Revenue would be deposited in the state General Fund. The following table shows the estimated potential excise tax revenue.

Estimated Revenue Upon Full Implementation (in millions)		
FY	<u>Low Estimate</u>	<u>High Estimate</u>
FY 2026 (1%)	\$4.2	\$9.2
FY 2027 (2%)	\$8.4	\$18.4
FY 2028 (3%)	\$12.5	\$27.5

The estimated potential excise 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.

Sales Tax: The 7% state Sales Tax would also apply to sales of adult use and medical cannabis beginning in FY 2026. The revenue increase could be approximately \$41.9 M to \$82.1 M in the first full year of sales. However, actual revenue would be lower to the extent veterans purchase cannabis exempt from sales tax. 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. 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%).

Permits, Fees, and Fines: An identification card for a patient or caregiver is \$50 for issuance or renewal. Demonstrated financial hardship may reduce or waive the fee. The bill also requires the commission to conduct a national criminal history background check of each applicant for a caregiver identification card and requires the applicant to pay for the associated \$15 State Police fee.

Permit fees and civil penalties imposed by the commission will increase revenue to the state General Fund. Resulting revenue may resemble new programs in other states, such as in Michigan or Illinois, which received between \$0.5 M and \$1.3 M from active licenses in early years. The permit fee revenue will increase as the program matures. Cannabis organization permit fees are listed in the following table.

Permit Fees by Type				
Fee Type	Grower	Processor	Qualified Retailer	Testing Laboratory
Application (nonrefundable)	\$500	\$2,500	\$200	\$1,000
Permit (refundable)	\$2,500	\$10,000	\$1,000/location	\$2,500/location
Permit Renewal (refundable)	\$1,000	\$5,000	\$750/location	\$2,000/location
Permit Amendment (nonrefundable)	\$250	\$250	\$250	\$250

Controlled Substance Excise Tax (CSET) Repeal: CSET collections are \$4,253 per year on average between FY 2021 and FY 2024, and the revenue is deposited in the Controlled Substance Tax Fund. The tax is collected on the delivery, possession, or manufacture of controlled substances in violation of state or federal law, and the money in the CSET Fund is used to cover administrative and enforcement costs of the Department of Revenue.

Penalty Provisions and Expungements: The bill will potentially reduce revenue to the state General Fund (from court fees) and the Common School Fund (from criminal fines). The number of cases could be reduced by the bill’s provisions limiting marijuana offenses to individuals noncompliant with the program; provisions requiring a minimum concentration of THC in a person’s blood for the person to be violation of operating a vehicle, motorboat, or other equipment while under the influence of THC; and provisions establishing a new category for expungements that do not require filing fees (this provision would reduce revenue, not cases). The bill maintains the limit of one expungement petition during a person’s lifetime.

The total fee revenue per case ranges between \$113 and \$138. 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: *Penalty Provisions:* Limiting certain marijuana offenses to individuals noncompliant with the program and adding the requirement regarding a minimum THC concentration in a person’s blood for operating-a-vehicle-while-intoxicated offenses could reduce local jail populations. The bill could also reduce costs to counties for public defense expenses and the pre- and post-trial jail confinement for persons who are charged with marijuana offenses. The bill could also reduce the supervisory burden on community corrections agencies and probation departments. However, cases that currently include these offenses may also include other offenses which may still be prosecuted.

Expungements: Court workload could minimally increase to process expungement petitions that are not yet eligible for expungement under current law. Since most expungements are disposed with a bench disposition (83%), which generally do not require witnesses to be sworn in or evidence to be introduced, the court proceedings should be relatively brief. Courts take an average of 23 minutes to complete an expungement petition. The bill maintains the limit of one expungement petition during a person’s lifetime.

Explanation of Local Revenues: *Penalty Provisions and Expungements:* Revenue could minimally decrease for the new category of expungements that do not require filing fees. Local governments would also receive less revenue from court fees if there are fewer criminal prosecutions. However, any reduction in revenue

would likely be minor. For cases filed in a court of record, the county general fund receives \$47.40 and qualifying municipalities receive a share of \$3.60. For cases filed in a municipal court, the county receives \$30, and the municipality receives \$46. 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: Governor’s Office; General Assembly; Department of State Revenue; State Department of Agriculture; State Department of Health.

Local Agencies Affected: Prosecuting attorneys; law enforcement agencies; courts with certain criminal jurisdiction; community corrections agencies, trial courts, city and town courts.

Information Sources: U.S. Substance Abuse and Mental Health Services Administration; National Survey on Drug Use and Health, December 2020; Graig Lubsen, Indiana Office of Technology; 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 Trial Court Fee Manual; Odyssey Case Management System maintained by the Indiana Supreme Court, Office of Judicial Administration; Indiana Judicial Service Report: Judicial Year in Review-
<https://www.in.gov/courts/iocs/statistics/trial-probation>;
<https://www.in.gov/courts/iocs/files/pubs-trial-court-courtmgmt-expungement-detailed.pdf>;
[2024 Indiana Weighted Caseload Study](#);
State program websites and contacts available from LSA upon request.

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