

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## SENATE, No. 3235 STATE OF NEW JERSEY 221st LEGISLATURE

DATED: JULY 3, 2024

### SUMMARY

- Synopsis:** Regulates production and sale of certain intoxicating hemp products.
- Type of Impact:** Annual State revenue and expenditure increases. Potential local revenue increase.
- Agencies Affected:** Department of Law and Public Safety; Cannabis Regulatory Commission; Department of Agriculture; Municipalities.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Increase</b>	Indeterminate
<b>State Revenue Increase</b>	Indeterminate
<b>Potential Local Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate annual increase in State revenues and expenditures.
- The OLS does not have sufficient data on the demand for or future sales of intoxicating hemp beverages and other products to project the tax revenues generated from these in a regulated marketplace under the authority of the Cannabis Regulatory Commission.
- The OLS also estimates indeterminate State revenue increases from civil penalties levied on an owner or operator of a business who sells an intoxicating hemp product in violation of the bill. The OLS cannot project the number or frequency of such violations. Also, the State's ability to collect fines and fees has historically been limited.
- The OLS finds the bill will result in State expenditure increases for the Cannabis Regulatory Commission and the Department of Law and Public Safety to develop and implement a public education program for businesses across the State on the bill. Additionally, establishing and maintaining a regulatory framework for intoxicating hemp products and the bill's

enforcement provisions will lead to respective workload increases for the commission and the department.

## **BILL DESCRIPTION**

The bill synchronizes the definitions of hemp, hemp products, and definitions involving total tetrahydrocannabinol (THC) concentration in order to regulate the sale of intoxicating hemp products, particularly intoxicating hemp beverages, as a form of cannabis item. By means of updating definitions, and adding a definition of intoxicating hemp products, the bill clarifies the role of each agency. The Cannabis Regulatory Commission would be responsible for regulating the sale of all legally produced intoxicating cannabis items, whether hemp or cannabis; the Department of Agriculture would continue to regulate the cultivation and processing of hemp as an agricultural commodity; and the Attorney General would maintain the jurisdiction over illegally produced marijuana and THC, including any businesses or individuals who fail to sell cannabis items through a licensed retailer.

The bill requires that any sale of an intoxicating hemp beverage by a holder of a plenary retail distribution liquor license or plenary wholesale license is subject to: (1) the sales tax imposed on cannabis; and (2) the optional local cannabis transfer and user tax imposed on cannabis by a municipality.

A person who sells or distributes an intoxicating hemp product or hemp item not derived from naturally occurring biologically active chemical constituents, would be subject to civil penalties of not less than: \$100 for the first violation; \$1,000 for the second violation; and \$10,000 for the third and each subsequent violation.

The commission, in consultation with the Department of Law and Public Safety, would be required to develop and implement a public education program to educate businesses across the State on the bill's provisions.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

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The bill requires that any sale of an intoxicating hemp beverage by a holder of a plenary retail distribution liquor license or plenary wholesale license is subject to: (1) the sales tax imposed on cannabis; and (2) the optional local cannabis transfer and user tax imposed on cannabis by a municipality. The OLS finds there is not enough data to estimate the revenues, to the State and municipalities that opt in, from the sale of such beverages or quantify the demand or future trends in sales of intoxicating hemp beverages.

The OLS also estimates indeterminate State revenue increases from civil penalties levied on an owner or operator of a business who sells an intoxicating hemp product in violation of the bill. The penalties ranges from at least \$100 for a first violation to at least \$10,000 for third and subsequent violations. The OLS cannot project the number or frequency of such violations. Also, the State's ability to collect fines and fees has historically been limited.

The OLS finds the bill will result in State expenditure increases for the Cannabis Regulatory Commission and the Department of Law and Public Safety to develop and implement a public education program for businesses across the State on the bill.

Additionally, establishing and maintaining a regulatory framework for intoxicating hemp products and the bill's enforcement provisions will lead to respective workload increases for the Cannabis Regulatory Commission and the Department of Law and Public Safety. The commission, which currently regulates adult-use and medical cannabis, will also regulate intoxicating hemp products under the bill. The OLS finds that this would broaden the commission's responsibilities and presumably increase its workload. The OLS also finds that enforcement relating to intoxicating hemp products may result in workload increases for the Attorney General's Office.

*Section:           Judiciary*

*Analyst:          Michael Davila  
Associate Counsel*

*Approved:       Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).