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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

S.B. 326
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 326's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. S. Huffman

Local Impact Statement Procedure Required: No

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Highlights

- The Ohio Investigative Unit within the Ohio Department of Public Safety expects to incur additional costs, including hiring additional staff, for enforcing the prohibition against selling an intoxicating hemp product.
- Certain local criminal justice systems may see an increase in the number of cases to adjudicate and offenders to sanction, the magnitude of which will vary by court and depend on the number of individuals who are ultimately charged, convicted, and subsequently sentenced to a period of incarceration. These costs may be at least partially offset by the collection of fines, fees, and court costs.
- The bill authorizes the Department of Commerce to impose an administrative penalty against a person who sells intoxicating hemp products. These penalties would be set by rule and deposited into the Medical Marijuana Control Fund (Fund 5SY0).
- The Department of Agriculture, which oversees the state's hemp program, could incur additional administrative and testing costs under the bill. The administrative costs will be paid from GRF appropriation line item (ALI) 700674, Hemp Production, and Fund 5WJ0 ALI 700671, Hemp Program. Additional testing costs will be paid from GRF ALI 700406, Consumer Protection Lab, and Fund 6520 ALI 700634, Animal, Consumer, and ATL Labs, and may be offset by testing fees.

Detailed Analysis

The bill defines intoxicating hemp products and prohibits the sale, gift, or exchange of such products.

Criminal penalties

Under the bill, a person who knowingly violates the prohibition against selling an intoxicating hemp product is guilty of a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. Knowingly selling an intoxicating hemp product to a person under 21 is a fifth degree felony. The following table shows the sentences and fines for selling intoxicating hemp products.

Table 1. Sentences and Fines for Selling Intoxicating Hemp Products		
Offense Level	Fine	Term of Incarceration
Felony 5 th degree	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term
Misdemeanor 1 st degree	Up to \$1,000	Jail, not more than 180 days

By creating a prohibition against selling intoxicating hemp products, the bill may increase the number of cases for certain local courts to adjudicate. As a result, there may be an increase in costs for local courts to adjudicate any new cases and for state and local criminal justice systems to sanction offenders. These increased costs will vary by court and depend on the number of individuals who are ultimately charged, convicted, and subsequently sentenced to a period of incarceration in a local jail or state prison.

Fines, fees, and court costs

To the extent that additional cases are generated the bill may also impact the amount of fine, fee, and court cost revenue, including the amount of court costs forwarded to the state, which may at least partially offset any expenses incurred. Any revenue received from fines or local court costs and fees (which vary by jurisdiction) for selling intoxicating hemp products would be retained locally, with locally collected state court costs distributed in the state treasury as shown in the table below.

Table 2. Statutory Distribution of State Court Costs		
Offense Type	Amount	State Treasury Distribution
Misdemeanor	\$29	<ul style="list-style-type: none"> ▪ \$20 to the Indigent Defense Support Fund (Fund 5DY0) ▪ \$9 to the Victims of Crime/Reparations Fund (Fund 4020)
Felony	\$60	<ul style="list-style-type: none"> ▪ \$30 to the Indigent Defense Support Fund (Fund 5DY0) ▪ \$30 to the Victims of Crime/Reparations Fund (Fund 4020)

Department of Public Safety

The Ohio Investigative Unit (OIU), which is housed within the Department of Public Safety (DPS), enforces Ohio's alcohol, tobacco, and food stamp fraud laws. OIU agents are responsible for investigating violations relating to the liquor control act as well as criminal activity in or

around liquor permit locations and illegal establishments. Under the bill, OIU is also required to enforce the prohibition against selling an intoxicating hemp product if it has information that a violation occurred and take any action as it considers appropriate. According to DPS, this requirement is likely to result in additional costs, including the hiring of additional staff, in order to carry out these new duties.

Department of Commerce

Under the bill, the Director of Commerce (COM) is authorized to impose an administrative penalty against a person who sells intoxicating hemp products. These penalties would be deposited into the Medical Marijuana Control Fund (Fund 5SY0) which is used to support the Division of Marijuana Control. COM is required to establish the administrative penalties in rules, and those penalties must not exceed \$10,000 for a first violation, \$25,000 for a second violation, and \$50,000 for a third or subsequent violation. Total penalty revenue will depend on the number and type of offenses committed in a given fiscal year as well as the penalty amounts established under rule. Any person charged with a penalty may challenge the Department's actions through an adjudication hearing and the right to appeal the Department's decision.

Department of Agriculture

The Department of Agriculture (AGR) may incur administrative costs to implement changes to the Hemp Law made under the bill. Specifically, the Department may incur increased costs for oversight of hemp processors to ensure intoxicating hemp products are not produced and distributed. The administrative costs will likely be paid from GRF appropriation line item (ALI) ALI 700674, Hemp Production, and Fund 5WJ0 ALI 700671, Hemp Program. Fund 5WJ0 revenue is derived from license fees paid by hemp cultivators and processors, as well as lab testing fees.

Additionally, certain products may be subject to additional testing performed by the consumer protection lab (CPL). CPL is supported by GRF ALI 700406, Consumer Protection Lab, and Fund 6520 ALI 700634, Animal, Consumer, and ATL Labs. As of November 2024, the Plant Health Division charges \$100 to test moisture, total tetrahydrocannabinol (THC), and dry weight. These fees are deposited into Fund 6520 to offset testing costs. As other compounds may need to be tested for under the bill's definition of intoxicating hemp products, AGR may need to adopt additional tests and corresponding fees to cover costs.