

## Department of Planning and Budget 2017 Fiscal Impact Statement

**1. Bill Number:** HB2398

**House of Origin**    ☐ Introduced    ☒ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Pogge

**3. Committee:** Appropriations

**4. Title:** Industrial hemp; license to grow outside of research program.

**5. Summary:** This substitute bill amends the Virginia Industrial Hemp Law (Law) (Va. Code § 3.2-4112 et seq.) to require the Commissioner of Agriculture and Consumer Services (Commissioner) to establish an agricultural pilot program and licensing procedure to study the growth, cultivation, and marketing of industrial hemp. The bill requires that the pilot program be open to citizens of the Commonwealth and institutions of higher education, the license be valid for two years, and the application fee not exceed \$100. The bill also amends the Law to create new provisions pertaining to the industrial hemp grower license for an individual who is growing hemp for a lawful purpose other than as part of the proposed agricultural pilot program.

**6. Budget Amendment Necessary:** Yes, Item 93 of HB1500/SB900.

**7. Fiscal Impact Estimates:** Preliminary.

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2018	\$208,140	3	GF
2019	\$208,140	3	GF
2020	\$208,140	3	GF
2021	\$208,140	3	GF
2022	\$208,140	3	GF
2023	\$208,140	3	GF

**7b. Revenue Impact:** Indeterminate. See item 8.

**8. Fiscal Implications:** The Virginia Department of Agriculture and Consumer Services (VDACS) does not have staff solely dedicated to the current industrial hemp research program, which has 23 licensed growers. The Kentucky Department of Agriculture, which has had an agricultural pilot program in place for three years, has licensed 209 growers to cultivate up to 12,800 acres of hemp for the 2017 growing season. Assuming a similar interest by Virginia growers, VDACS will need one position, at an estimated annual cost of \$65,412, to license participants in the proposed agricultural pilot program and liaise with law

enforcement authorities responsible for marijuana eradication in order to prevent the eradication of hemp grown as part of the agricultural pilot program. Additional resources will also be needed for fiscal processing of application fees and seed purchases. VDACS will need one FTE, at an estimated annual cost of \$65,412, to meet the administrative responsibilities associated with the bill. As the 2014 Farm Bill requires that research be the purpose of an industrial hemp agricultural pilot program, the agency will need another position, at an estimated annual cost of \$77,316, who is responsible for collecting, analyzing, and synthesizing data on the hemp grown as part of the agricultural pilot program and general oversight of the program. The three positions total \$208,140, and a budget amendment is required beginning in FY 2018.

The bill requires the Commissioner to aid license holders in pursuing any permits, waivers, or contracts required to facilitate the importation or purchase of certified industrial hemp seed, and VDACS anticipates it will need to evaluate contracts presented by seed suppliers. As a result, the department will increase its use of the counsel at the Office of the Attorney General, at a cost of \$141.39 per hour.

VDACS currently maintains a spreadsheet to track the 23 licensed growers who participate in the industrial hemp research program. If the number of applicants for a license to participate in the proposed agricultural pilot program increases beyond approximately 50, the department anticipates it will need to develop a database to track the applicants and licensees for the proposed program. Based on the costs of similar licensing systems and programs, the system costs may be up to \$160,000 annually. The expenditure impact identified in item seven, above, does not include the costs of legal services or additional system costs. Appropriation for these expenditures may be required in future biennia.

Although the bill does not require the agency to import, store, and distribute hemp seed for the proposed agricultural pilot program, if the agency is called upon to do so, the agency will need seed storage space that is climate-controlled, meets the U.S. Drug Enforcement Administration's security requirements, and is of sufficient capacity. It is unlikely that the agency will have access to state-owned space meeting these requirements; therefore, the agency anticipates needing to procure private space to store hemp seed. The cost for appropriate space is indeterminate at this time.

The bill prescribes a licensure fee not to exceed \$100 for a two-year license. The number of licenses that will be issued under the provisions of the bill cannot be determined. This bill requires the Commissioner to operate the industrial hemp research program using department funds when the license fees and public and private funding sources are insufficient to implement the industrial hemp research program. VDACS is not able to absorb the fiscal impact of the bill, and this provision will create a budget shortfall. It is anticipated that VDACS will need to reduce funding in other programs in its budget in order to operate the program.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Agriculture and Consumer Services; Office of the Attorney General; Department of State Police.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** The bill establishes a license fee not to exceed \$100 for a two-year license. The substitute version specifies that when the license fees and public and private funding sources are insufficient to implement the program, the department shall use its existing funds to support the program. However, the bill does not provide a specific authorization that the revenue from the license fees can be retained and used for administration of the program by VDACS.

SB1306, as passed by the Senate, is similar to this bill.