

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: HB1839

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|------------------------|---------------------------------------|--|---|
| House of Origin | <input type="checkbox"/> Introduced | <input checked="" type="checkbox"/> Substitute | <input checked="" type="checkbox"/> Engrossed |
| Second House | <input type="checkbox"/> In Committee | <input type="checkbox"/> Substitute | <input type="checkbox"/> Enrolled |

2. Patron: Marshall

3. Committee: Agriculture, Chesapeake and Natural Resources

4. Title: Industrial hemp; federal Farm Bill; emergency.

5. Summary: Conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law. The bill defines "industrial hemp" as any part of the plant *Cannabis sativa* that has a concentration of THC that is no greater than that allowed by federal law, and it adds the category of "dealer" in industrial hemp to the existing registration categories of grower and processor. The bill also removes a provision in current law that makes it unnecessary for a prosecutor to negate an industrial hemp exemption in a drug prosecution; such current provision places the burden of proof of any such exemption on the defendant.

The bill requires any registered grower, dealer, or processor who negligently violates the law to comply with a corrective action plan established by the Commissioner of Agriculture and Consumer Services (the Commissioner). The plan must identify a date by which the person is required to correct the violation and requires the person to report periodically for not less than two calendar years on his compliance with the law. No person who negligently violates the industrial hemp law three times in a five-year period is eligible to grow, deal in, or process industrial hemp for a period of five years beginning on the date of the third violation.

The bill directs the Commissioner to (i) revoke the registration of any registered grower, dealer, or processor who violates the law with a culpable mental state greater than negligence and (ii) advise the Attorney General of the United States and the Superintendent of State Police, or the chief law-enforcement officer of the county or city, when such person grows, deals in, or processes any *Cannabis sativa* with a concentration of THC that is greater than that allowed by federal law with a culpable mental state greater than negligence.

The bill abolishes the higher education and Virginia industrial hemp research programs, along with the requirement that a grower or processor act exclusively within such a program. The bill authorizes the Commissioner to charge a fee for certain THC testing. Finally, the bill directs the Department of Agriculture and Consumer Services to report to the General Assembly by September 1, 2019, on the fiscal impact of the growth of the industrial hemp industry upon the Department's registration program and the existence of any need to alter the registration fee. The bill includes an emergency clause.

As engrossed, the bill expands the definition of hemp product. It also expands the provisions under which the Commissioner may require a grower, a dealer, or processor to destroy any product that is tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent, and provides for the authorization of a second test. The bill clarifies the definition of marijuana, excluding (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law. Lastly, the bill directs the Department of Agriculture and Consumer Services to report to the General Assembly by December 1, 2019, on the viability of markets for Virginia industrial hemp growers, the types of products made from industrial hemp that can be produced in Virginia, and the economic benefits and costs of production of such products.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary.

8. Fiscal Implications: It is anticipated that this bill will not have a fiscal impact on the Department of Agriculture and Consumer Services (VDACS). However, at this time, VDACS is not able to assess whether or to what extent its current hemp registration program will expand as the result of the Farm Bill. Additionally, the U.S. Department of Agriculture (USDA) has not yet issued guidance regarding the content of the regulatory plans it expects to receive from states that desire primary regulatory authority over hemp production pursuant to the hemp provisions in the 2018 Farm Bill. VDACS may require additional resources to meet USDA requirements, should Virginia elect to pursue primary regulatory authority over hemp production within the state.

The Department of State Police does not anticipate a fiscal impact as a result of this bill.

The Department of Forensic Science does not anticipate a fiscal impact as a result of this bill.

9. Specific Agency or Political Subdivisions Affected: Department of Forensic Science; Department of Agriculture and Consumer Services; Department of State Police.

10. Technical Amendment Necessary: No.

11. Other Comments: SB1692, as passed by the Senate, is similar to this bill. HB2346, HB2649, and SB1057 also address industrial hemp.