



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1839 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Marshall)

LD #: 19106006

Date: 1/29/2019

Topic: Industrial hemp

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
None (\$0) *
- **Juvenile Detention Facilities:**
None (\$0) *

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal 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 proposal 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 proposal also allows the Commissioner of Agriculture and Consumer Services to revoke the registration for individuals who violate the law. Finally, the proposal specifies that the definition of marijuana in § 18.2-247 does not include industrial hemp or a hemp product containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp that is grown, dealt or processed in compliance with state or federal law. Thus, individuals who grow, deal or process industrial hemp in compliance with the law could not be prosecuted for any marijuana crimes defined in the *Code of Virginia*.

Analysis:

The number of individuals growing, possessing or distributing industrial hemp who were convicted of marijuana offenses in the past is not known. Under the proposal, individuals complying with state or federal law related to industrial hemp could not be prosecuted for marijuana offenses under state law.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal conforms Virginia law to recently-adopted federal provisions related to industrial hemp and removes the possibility of prosecution for marijuana-related

offenses for individuals who lawfully grow, deal or process industrial hemp. Because the proposal does not expand the applicability of any felony offense and, in fact, restricts the applicability of marijuana-related felonies, the proposal is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is not expected to increase the need for local-responsible (jail) beds.

Adult community corrections programs. The proposal will not increase resource needs for adult community corrections programs.

Virginia's sentencing guidelines. Felony violations under § 18.2-248.1 related to the manufacture or distribution of marijuana are covered by the sentencing guidelines. Other marijuana-related offenses are not covered by the guidelines as the primary, or most serious, offense. Such convictions, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the proposal is not expected to impact direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to impact the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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