

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: SB1233

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☒ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Obenshain

3. Committee: House Committee for Courts of Justice

4. Title: Marijuana advertising restrictions

5. Summary: The proposed bill makes it a Class 1 misdemeanor to advertise in or send any advertising matter into the Commonwealth regarding marijuana or marijuana products other than those that may be legally sold or to engage in advertising activities in violation of the provisions of the Cannabis Control Act or regulations of the Board of Directors of the Virginia Cannabis Control Authority.

The bill provides that for violations of certain distance and zoning restrictions on outdoor advertising, as set forth in the bill, the Board must give the advertiser written notice to take corrective action and that, if such corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

The bill establishes numerous restrictions on marijuana advertisements, including provisions that prohibit advertisements from (i) targeting minors; (ii) being placed near schools, playgrounds, and certain other places; (iii) being displayed at a sporting event or on a billboard; (iv) being misleading, deceptive, or false; (v) referencing the intoxicating effects of marijuana; or (vi) promoting overconsumption or consumption by minors.

6. Budget Amendment Necessary: Indeterminate

7. Fiscal Impact Estimates: Preliminary. (See Item 8 below)

8. Fiscal Implications: The Cannabis Control Authority (CCA) believes it needs one investigator position to perform the duties outlined in the bill at a cost of \$121,620 in FY 2024 and \$115,760 in FY 2025. In Chapter 2, 2022 Virginia Acts of Assembly Special Session I, the CCA has a base general fund appropriation of \$8.2 million in FY 2023 and \$11.2 million in FY 2024. Therefore, current resources can be used to support this position. According to the Office of the Executive Secretary of the Supreme Court (“OES”), the proposed bill is not expected to have a material fiscal impact on agency resources. Violation of this provision is a Class 1 misdemeanor. It also provides a Commonwealth to persons who may not legally possess them (Class 1 misdemeanor) violations of certain distance and zoning restrictions is a Class 4 misdemeanor. (Class 4 misdemeanor).

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

A Class 4 misdemeanor is punishable by a fine of up to \$250. All revenue collected from such fines is deposited into the Literary Fund. However, it is not possible to estimate either the number of convictions that may result or the amount of each fine that may be assessed under this legislation. Therefore, the impact of this bill cannot be determined.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Cannabis Control Authority, Department of Corrections, Literary Fund, local and regional jails

10. Technical Amendment Necessary: No

11. Other Comments: None