

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB698H1

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

2. Patron: Krizek

3. Committee: General Laws

4. Title: Cannabis control; retail market; penalties.

5. Summary: The proposed legislation establishes a framework for the creation of a retail marijuana market in the Commonwealth, to be administered by the Virginia Cannabis Control Authority. The bill allows the Authority to begin issuing all marijuana licenses on July 1, 2025; however, as amended, the bill allows certain pharmaceutical processors and a limited number of other micro business licenses to begin retail sales on January 1, 2025.

6. Budget Amendment Necessary: Yes, Items 382 and 390.

7. Fiscal Impact Estimates: Preliminary (see Item 8).

8. Fiscal Implications: The proposed bill has varying levels of impact on several state agencies:

Cannabis Control Authority (CCA)

According to the Virginia Cannabis Control Authority (CCA), this bill will impact the Special Fund for Virginia Cannabis Control Authority. The CCA reports that it will require nongeneral fund appropriation to support additional staff and resources funded by special fund revenue to prepare and implement the framework for the retail adult use market. Under the substitute, there will eventually be 950 adult use cannabis licenses in Virginia. The CCA will be required to promulgate regulations related to adult use retail sales by November 1, 2024, and all products sold in the adult use market must be preregistered with the CCA before sale.

The agency reports that it will need up to 75 additional staff in 2025 and expects to add 9 staff members in 2026 to meet the provisions of the proposed bill, which include a micro business program and a requirement for product registrations. The necessary staff categories include Education, Legal and Policy, Investigation, Licensing, Compliance, Information Technology, Human Resources, and Finance. The CCA also reports that it will need to use resources for IT services and equipment, computer software development and maintenance, motor vehicle and law enforcement equipment, and travel within the Commonwealth of Virginia.

The CCA's estimated costs are summarized below:

Description	FY 2025 Cost	FY 2026 Cost
Computer Software Development and Maintenance Services (licensing and product registration software) (One-Time and Recurring)	\$850,000	\$250,000
Motor Vehicle and Law Enforcement Equipment and Supplies (One-Time and Recurring)	\$913,710	\$57,360
IT Services, Software, Travel, Training, and Incidentals for FTE (Recurring)	\$1,004,869	\$1,125,453
IT Equipment and Furniture for FTE (One-Time)	\$439,500	\$52,740
Estimated Personnel Costs (75 FTE in FY 2025 and 84 FTE in FY 2026)	\$5,630,328	\$8,582,220
Estimated Total Fiscal Impact	\$8,838,407	\$10,067,773

Item 397 in Chapter 1 (present Appropriation Act) provides the CCA with a general fund base budget of \$5.3 million and 49 positions. Chapter 1 also provides one-time funding of \$2.5 million general fund originally appropriated under Item 479 U., Chapter 552, 2021 Acts of Assembly, Special Session I, to cover one-time expenses. The Introduced Budget (HB30/SB30) adjusts CCAs authority by \$1 million each year. According to the agency, once the retail market is fully implemented, the currently general funded positions would be supported with nongeneral fund appropriation.

Office of the Executive Secretary of the Supreme Court (OES)

According to the Office of the Executive Secretary of the Supreme Court, the proposed legislation is not expected to have a fiscal impact on agency operations.

Virginia Department of State Police (VSP)

According to the Virginia Department of State Police, the proposed legislation is not expected to have a fiscal impact on agency operations.

Department of Agriculture and Consumer Services (VDACS)

According to the of Agriculture and Consumer Services, the proposed bill is not expected to have fiscal impact on agency operations.

Department of Taxation (Department)

The substitute bill would impose a 4.5 percent tax, in lieu of any sales tax that would apply, on any retail marijuana, retail marijuana products, marijuana paraphernalia sold by a retail store, as well as non-retail marijuana and non-retail marijuana products. The bill would further provide that any locality may, by ordinance, impose an additional tax on these retail and non-retail products at a rate not to exceed 4.5 percent that would apply in lieu of any local sales tax that would otherwise apply. The taxes imposed would be collected by the seller and remitted to the CCA. Any local tax revenue would be returned to the locality in which it was collected.

The bill would also impose a nine percent tax on the sale of cannabis products by pharmaceutical processors, which would apply in lieu of sales tax. This tax would be remitted to the Department. The bill would authorize the Department to assess and collect fees from each pharmaceutical processor in an amount sufficient to recover the costs associated with the implementation of the nine percent tax.

Administrative Costs

Provided that the Department would only be required to collect the nine percent excise tax from pharmaceutical processors on a short-term basis, the Department would consider implementation of this bill to be routine and would not require additional funding. To the extent that pharmaceutical processors would continue paying the nine percent excise tax to the Department for a longer duration, the Department would incur costs for programming its systems to establish a less manual process.

Revenue Impact

The positive impact of this bill on state revenues is unknown. It is anticipated that revenues from this bill would be generated beginning as early as Fiscal Year 2025 and that they would grow annually.

In November 2020, the Joint Legislative Audit and Review Commission (JLARC) published a report entitled “Key Considerations for Marijuana Legalization,” which provided a high and a low estimate for sales. Below are JLARC’s estimate for sales in years one through five of implementation.

Projected Marijuana Sales in Virginia (in millions)
Source: JLARC Analysis of MPG Sales Estimates

	Year 1	Year 2	Year 3	Year 4	Year 5
Higher end - expected legal sales	\$206.00	\$420.00	\$646.00	\$844.00	\$1,016.00
Lower end - expected legal sales	\$123.60	\$252.00	\$387.60	\$506.40	\$609.60

The higher end projections reflect optimistic estimates of illegal market conversion, relative equilibrium between supply and demand, and that neither surrounding states nor the federal government legalize recreational marijuana. The lower end projections reflect less optimistic estimates of illegal market conversion, possible periods of disequilibrium between supply and demand, and the possibility of West Virginia, Tennessee, or North Carolina, or the federal government, legalizing recreational marijuana sales.

Using the mid-range point of JLARC’s estimates as a base, it is estimated that this bill could generate total state revenues of \$7.3 million in Fiscal Year 2025, \$15.11 million in Fiscal Year 2026, \$20.89 million in Fiscal Year 2027, \$29.83 million in Fiscal Year 2028, \$37.36 million in Fiscal Year 2029, and \$43.37 million in Fiscal Year 2030. Such revenues include additional revenues estimated to be generated from the 4.5 percent state excise tax and the nine percent excise tax on pharmaceutical processors that would be imposed by this bill. These estimates exclude the impact of any local 4.5 percent excise tax that could be imposed under this bill.

The detailed estimated revenue impact of the bill is as follows:

**Fiscal Year Revenue Impacts from Retail Marijuana Market
(Millions \$)**

	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Marijuana Tax (4.5%)	\$0.00	\$8.99	\$20.89	\$29.83	\$37.36	\$43.37
<i>Local Option (4.5%)</i>	\$0.00	<i>Unknown up to \$8.99</i>	<i>Unknown up to \$20.89</i>	<i>Unknown up to \$29.83</i>	<i>Unknown up to \$37.36</i>	<i>Unknown up to \$43.37</i>
Pharmaceutical Processors (9%) ¹	\$7.30	\$6.13	\$0.00	\$0.00	\$0.00	\$0.00
Marijuana Tax (4.5%)	\$0.00	\$8.99	\$20.89	\$29.83	\$37.36	\$43.37
Pre-K Programs (40%)	\$0.00	\$3.59	\$8.36	\$11.93	\$14.94	\$17.35
Cannabis Equity Reinvestment Fund (30%)	\$0.00	\$2.70	\$6.27	\$8.95	\$11.21	\$13.01
Substance Use Disorder (25%)	\$0.00	\$2.25	\$5.22	\$7.46	\$9.34	\$10.84
Public Health Program (5%)	\$0.00	\$0.45	\$1.04	\$1.49	\$1.87	\$2.17
Pharmaceutical Processors (9%)	\$7.30	\$6.13	\$0.00	\$0.00	\$0.00	\$0.00
Total State (Non-General Funds)	\$7.30	\$15.11	\$20.89	\$29.83	\$37.36	\$43.37

¹ Estimates based upon JLARC's estimates in its 2020 report, "Key Considerations for Marijuana Legislation."

² Estimates assume retail sales beginning July 1, 2025, and eligible pharmaceutical sales beginning July 1, 2024. ³Pharmaceutical Processors Tax estimates generated by adjusting JLARC's sales estimates by applying the annual ratio of medical to recreational sales in Colorado, Oregon, and Illinois to Virginia's estimated recreation sales; tax rate of 9 percent then applied to medical sales.

⁴ It is assumed that pharmaceutical sales would transition to retail sales beginning January 1, 2026. For FY 2026, five months of pharmaceutical sales would transition the retail marijuana tax regime. Beginning in Fiscal Year 2027, the transition would be assumed to be complete, fully phasing out the pharmaceutical tax.

⁵ Estimates for Fiscal Year 2025 generated by deflating Fiscal Year 2026 estimates by 25 percent, which is the change in medical sales that Illinois experienced the year before establishing a recreational market.

Department of Education

According to the Department of Education, the proposed legislation is not expected to have a fiscal impact on agency operations.

Part of the 4.5% marijuana tax would go to pre-K programs for at-risk three- and four-year-olds (see above).

The bill requires any locality that levies the tax to use part of the revenues for certain things including education-related expenses. Some of those local education expenses eventually

could impact state K-12 funding since state funding accounts for actual local expenditures, but any actual impact is indeterminate and would be in future biennia.

Office of the Attorney General (OAG)

Impact to the Office of the Attorney General is indeterminate.

Department of Health Professions (DHP)

According to the Department of Health Professions, the proposed legislation is not expected to have a fiscal impact on agency operations.

Criminal Impact

According to the Virginia Criminal Sentencing Commission (VCSC), the number of individuals who may be convicted of the new misdemeanors and felonies defined in the proposal, and the sentences these individuals may receive, is not known. By creating a regulatory and licensing structure, the proposal may possibly result in fewer convictions under existing provisions related to the unlawful distribution of marijuana. Whether or not, or the extent to which, this will occur is not known.

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 \$5.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail and \$15.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g., correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2023), the estimated total state support for local jails averaged \$45.76 per inmate, per day in FY 2022.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 1, 2023 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 general fund be assigned to the bill.

- 9. Specific Agency or Political Subdivisions Affected:** Courts, Cannabis Control Authority, Department of Education, Department of Taxation, Department of Agriculture and Consumer Services, state and local law enforcement agencies, local and regional jails, Department of Corrections, Office of the Attorney General, Office of the Public Defender, Commonwealth's Attorneys, Department of Health Professions, Board of Pharmacy, and localities.

10. Technical Amendment Necessary: No.

11. Other Comments: None.