

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5763-01  
Bill No.: HB 2160  
Subject: Drugs and Controlled Substances; Taxation and Revenue - General; Revenue, Department  
Type: Original  
Date: March 8, 2016

Bill Summary: This proposal imposes an excise tax on marijuana and other controlled substances.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue Fund	Unknown to (\$153,900)	Unknown	Unknown
<b>Total Estimated Net Effect on General Revenue</b>	<b>Unknown to (\$153,900)</b>	<b>Unknown</b>	<b>Unknown</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Drug Task Force Enforcement*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Revenue and expenses net to zero.

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 11 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Sections 192.946 to 195.625, RSMo. - Excise Tax on Unauthorized Substances:

**Oversight** notes this proposal would create an excise tax on certain unauthorized substances; the Department of Revenue would sell stamps to be affixed to those substances to indicate payment of the tax. Dealers would not be required to provide identifying information at the time of stamp purchases. Law enforcement organizations would be required to report the seizure of unauthorized substances, and the tax would be assessed against the dealer who was in possession of the substance or substances. Collection of such tax assessed would be made by the Department of Revenue in the same way as other tax collections.

The proposal would create a dedicated Drug Task Force Enforcement Fund and all revenues collected under the proposed tax provisions would be deposited into that fund. voluntary tax payments which would be deposited into the General Revenue fund.

Revenue in the dedicated fund would be allocated as follows:

Department of Revenue -	20% for the cost of collection;
Department of Health and Senior Services -	10% for drug treatment and antidrug public awareness programs; and
Department of Public Safety -	70% to fund multijurisdictional enforcement groups as defined in the proposal.

Officials from the **Office of Administration - Division of Budget and Planning (B&P)** stated this proposal would impact Total State Revenue (TSR) and would impact the calculation required under Article X, Section 18(e) of the state constitution.

B&P officials assume that under Section 192.946, this proposal allows the Department of Health and Senior Services (DHSS) to charge a fee for licensing cannabidiol oil care centers that are authorized to produce hemp extract for research purposes.

B&P officials assume that under Sections 192.620 to 192.625, this proposal would create an excise tax on various unauthorized substances, including marijuana and cocaine. To the extent "dealers" would purchase stamps from the Department of Revenue (DOR), or delinquent taxes and penalties can be otherwise collected, General and Total State Revenues may increase by an unknown amount

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DHSS)** assume that the proposed legislation would levy an excise tax on unauthorized substances possessed by a dealer. DHSS officials stated they were unable to estimate the amount of revenue that may be generated from this proposed tax.

The proposal indicates that DHSS would receive ten percent (10%) of the funds generated from the excise tax placed on unauthorized substances and the funds would be used to fund drug treatment and anti-drug public awareness campaigns. DHSS officials noted DHSS does not currently provide drug treatment; this function is performed by the Department of Mental Health.

In response to a similar proposal (HB 2160), officials from the **Department of Revenue (DOR)** noted this proposal would impose an excise tax on controlled substances and assume if substances are held in the state that would require these taxes, the proposed excise tax could increase Total State Revenue.

The proposal would impose an Excise Tax from forty cents (\$0.40) to \$350 per gram, dosage, or plant depending on the substance.

Sale of stamps:

DOR officials also noted the proposal would require the Department to sell stamps to indicate payment of tax. Law enforcement agencies would report to the Department within 48 hours after seizing an unauthorized substance or making an arrest of an individual in possession of an unauthorized substance that does not have a stamp affixed. The Department would prescribe the form for this purpose.

Administrative Impact

DOR officials assume the Department would develop a reporting form and provide the form to law enforcement agencies. The proposal would allow stamps to be purchased in person or by mail. Since tax assistance offices no longer exist, DOR officials assume the most practical way to make stamps available would be to make them available in Jefferson City only.

**DOR** officials assume implementing this proposal would require one Revenue Processing Technician I (\$26,652) for sale of stamps.

Assessment of Tax on Seizure of Material

DOR officials noted the Department would be required to immediately assess tax, penalty, and interest when an unauthorized substance with no stamp attached has been seized from a dealer. The assessment would be in writing and the form would demand immediate payment. The

ASSUMPTION (continued)

Department would mail the assessment to the last known address, or serve the notice on the dealer in person. If the assessed amount is not paid immediately, DOR would collect the assessment under current provisions unless the dealer provides sufficient security.

Administrative Impact

DOR officials assume the major impact would be handling the assessments and the follow-up work required by the legislation. DOR staff would work with law enforcement agencies around the state, requiring large amounts of time and possibly travel. These personnel would also need to handle inquiries from law enforcement agencies as well as the public.

DOR officials assume excise Tax would require two additional Revenue Processing Technicians I (\$26,652) for every 400 assessments.

DOR officials noted the Department would require a system to keep records and track reports received by law enforcement agencies, and issue and track assessments.

The DOR estimate of costs to implement this proposal, including three additional employees and the related benefits, equipment, and expense total \$130,809 for FY 2017, \$168,040 for FY 2018, and \$169,940 for FY 2019.

**Oversight** will assume, for fiscal note purposes, this proposal would likely result in a minimal number of actual revenue transactions and assumes DOR could implement this proposal with existing resources. If this proposal results in an unanticipated increase in the DOR workload, or if multiple proposals are implemented which result in a significant increase in the DOR workload, resources could be requested through the budget process.

IT impact

**DOR** officials provided an estimate of the IT cost to implement this proposal of \$153,900 based on 2,052 hours of contract programming to make changes to DOR systems at the standard \$75 per hour state contract rate for IT services.

**Oversight** will include the DOR estimate of IT cost in this fiscal note.

Drug Task Force Enforcement Fund

DOR officials note this proposal would create a Drug Task Force Enforcement Fund and note the Department would credit proceeds of the tax to this fund until they are unencumbered. The State Treasurer would remit unencumbered funds quarterly or more frequently as the funds become unencumbered.

ASSUMPTION (continued)

If the tax is paid voluntarily to the Department and not as part of the investigation or arrest by a law enforcement agency, the tax would be considered unencumbered and credited to General Revenue.

**Oversight** will include unknown additional revenue to the Drug Task Force Enforcement Fund and the General Revenue Fund for these proceeds and will assume, for fiscal note purposes, that revenues deposited into the dedicated fund would be appropriated to the Department of Revenue, the Department of Health and Senior Services, and the Department of Public Safety as required by this proposal. Oversight further assumes all money received by the Drug Task Force Enforcement Fund will be used in the year in which it is received.

Officials from the **St. Louis County Police Department** assumed, in response to similar proposals, that if passed, the proposal would have a significant fiscal impact to their organization. Department officials stated the portion of the proposal which would require every law enforcement agency to submit a report to the Department of Revenue within 48 hours of seizing an unauthorized substance or arresting an individual in possession of an authorized substance would add a significant amount of work to their department.

Currently, the St. Louis County Police Department averages approximately 4,800 drug cases a year, all of which would require a separate report be written and submitted to the Department of Revenue (DOR) within 48 hours. Department officials estimated it would take an officer approximately 30 minutes to complete one report, and the average salary rate for an officer is \$22 an hour. For 30 minutes of work per report, processing would cost \$11 per case. Therefore, the cost of those 4,800 reports per year would be  $(4,800 \times \$11) = \$52,800$  a year in officer work time. The cost over three years would be \$158,400.

St. Louis County Police Department officials also stated the proposal would require a laboratory report identifying the unauthorized substance to be submitted to DOR within ten days. One of their average paced analysts completes approximately 700 drug cases per year. To complete 4,800 cases with a ten day turn-around-time would require at least an additional six analysts in the laboratory. An entry level salary for a Forensic Scientist I is \$40,539 (salary) + \$20,770 (benefits) equaling \$61,307. Multiplied by the need for 6 additional staff members would be a cost of \$367,842 per year. Along with this, continuing education and proficiency testing would be required to meet accreditation guidelines at an estimated cost of \$20,000. This makes the cost for additional staff over three years \$1,123,526.

**St. Louis County Police Department** officials estimated the total fiscal impact to St. Louis County for this bill would be officer work time plus additional lab staff plus necessary training, totaling \$1,281,926 over three years.

ASSUMPTION (continued)

Due to the difficulty in determining the cost as described above, **Oversight** will include a unknown cost in this fiscal note for compliance costs which would be required of local governments.

Officials from the **Joint Committee on Administrative Rules** assume this proposal would not have a fiscal impact to their organization in excess of existing resources``

Officials from the **Office of State Treasurer**, the **Department of Corrections**, the **Department of Insurance**, **Financial Institutions**, and **Professional Registration**, the **Department of Public Safety - Missouri Highway Patrol**, the **Department of Social Services**, the **City of Columbia**, the **Jackson County Election Board** and the **Platte County Board of Elections** assume this proposal would have no fiscal impact to their organizations.

Officials at the **Callaway County** assume this proposal would have an unknown positive impact on their organization

Officials from the **Department of Mental Health** and the **City of Kansas City** assumed, in response to a previous version of this proposal, that there be no fiscal impact to their organizations.

In response to a previous version of this proposal, officials from the **Office of the Secretary of State (SOS)** stated many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be greater than our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
<b>GENERAL REVENUE FUND</b>			
<u>Additional Revenue</u>			
Voluntary excise tax payments	Unknown	Unknown	Unknown
<u>Cost - DOR</u>			
IT cost	(\$153,900)	\$0	\$0
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$153,900) to Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>
<b>DRUG TASK FORCE TASK FORCE ENFORCEMENT FUND</b>			
<u>Additional revenue</u>			
Excise tax on illicit substances	Unknown	Unknown	Unknown
<u>Cost - DOR (20%) Collections</u>			
	(Unknown)	(Unknown)	(Unknown)
<u>Cost - DHSS (10%) Program expenditures</u>			
	(Unknown)	(Unknown)	(Unknown)
<u>Cost - DPS (70%) Program expenditures</u>			
	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON DRUG TASK FORCE ENFORCEMENT FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
<b>LOCAL GOVERNMENTS</b>			
<u>Compliance costs - Analysis, tracking and reporting on drug seizures</u>			
	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION

**MEDICAL MARIJUANA CLINICAL TRIALS** - The bill allows the licensing of hemp extract for use in clinical trials by research institutions such as hospitals and universities. Immunity from civil, criminal, and administrative penalties for those involved with clinical trials is specified in the bill. The Department of Health and Senior Services will implement rules regarding the licensure of clinical trials and programs.

**TAXATION OF CONTROLLED SUBSTANCES** - This bill imposes an excise tax on specified controlled substances possessed, transported, transferred, sold, or offered to be sold in violation of Missouri law by dealers. A "controlled substance" is defined as any drug, substance, or immediate precursor placed in Schedules I through IV, as specified in the bill, but not any drug, substance, or immediate precursor possessed by any individual with a prescription from an authorized practitioner.

The tax must be paid by any "dealer," who is defined as any person who actually or constructively possesses more than 35 grams of marijuana or one or more marijuana plant(s), one or more gram(s) of any other unauthorized substance that is sold by weight, or one or more dosage unit(s) of any other unauthorized substance that is not sold by weight.

The tax rates for each controlled substance and the criteria for measuring weight or dose is specified in the bill. The tax must not apply to a substance in the possession of a dealer who is authorized by law to possess the substance. This exemption must only apply during the time the dealer's possession of the substance is authorized by law.

The Director of the Department of Revenue must issue stamps to affix to unauthorized substances to indicate payment of the tax. Upon payment of the tax, the director must issue stamps in an amount equal to the amount of the tax paid. Taxes must be paid and stamps issued either by mail or in person.

Every law enforcement agency must report to the department within 48 hours after seizing an unauthorized substance or making an arrest of an individual in possession of an unauthorized substance that does not have a stamp affixed.

FISCAL DESCRIPTION (continued)

A notice of assessment and demand for payment must be either mailed to the dealer at the dealer's last known address or served on the dealer in person. The Drug Task Force Enforcement Fund is created and will consist of moneys collected by the tax. The department director must credit the proceeds of the tax levied to the fund until the tax proceeds are unencumbered. The State Treasurer must remit the unencumbered tax proceeds on a quarterly or more frequent basis as specified in these provisions.

The State Treasurer must first apply the unencumbered tax proceeds to the costs of storing and disposing of the assets seized in payment of the assessment. The treasurer must remit the remaining unencumbered tax proceeds that are collected by assessment to the departments of Revenue, Health and Senior Services, and Public Safety. The percentages for each department and specific uses of the proceeds are provided in the bill.

If the tax levied is voluntarily paid to the Department of Revenue, without an investigation or arrest, the tax must be considered unencumbered and the director must credit the entire tax proceeds to the General Revenue Fund.

The provisions of the bill must not be construed to confer any immunity from criminal prosecution or conviction for a violation of these provisions or Chapter 579, RSMo, upon any individual who voluntarily pays the tax or who otherwise complies with the provisions of the bill.

The Unauthorized Substance Tax Commission is established to review the rates of the tax levied and to make recommendations concerning increases in the rate of the tax to the General Assembly.

The Department of Revenue may establish rules to implement the provisions of the bill.

The bill also allows for the expansion of the existing hemp extract clinical trial program under Chapter 192 for certain types of intractable epilepsy.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

City of Columbia

Department of Corrections

Department of Health and Senior Services

Department of Insurance, Financial Institutions and Professional Registration

SOURCES OF INFORMATION (continued)

Department of Mental Health  
Department of Public Safety -  
    Missouri State Highway Patrol  
Department of Social Services  
Department of Revenue  
Jackson County Board of Election Commission  
Joint Committee on Administrative Rules  
Office of Administration -  
    Division of Budget and Planning  
Office of the Secretary of State  
Office of the State Treasurer  
Platte County Board of Election Commission  
St. Louis County  
St. Louis County Police Department



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