

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATURE 1st CALLED SESSION 2025

July 22, 2025

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB5 by Perry (Relating to the regulation of certain products derived from hemp, including consumable hemp products and the hemp-derived cannabinoids contained in those products; requiring occupational licenses and registrations; imposing fees; creating criminal offenses; authorizing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB5, As Introduced: a negative impact of (\$24,210,000) through the biennium ending August 31, 2027.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2026	(\$9,900,000)
2027	(\$14,310,000)
2028	(\$14,960,000)
2029	(\$15,630,000)
2030	(\$16,300,000)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Revenue (Loss) from General Revenue Fund 1</i>	<i>Probable Revenue (Loss) from Cities</i>	<i>Probable Revenue (Loss) from Transit Authorities</i>	<i>Probable Revenue (Loss) from Counties</i>
2026	(\$9,900,000)	(\$1,810,000)	(\$600,000)	(\$450,000)
2027	(\$14,310,000)	(\$2,510,000)	(\$830,000)	(\$620,000)
2028	(\$14,960,000)	(\$2,630,000)	(\$870,000)	(\$650,000)
2029	(\$15,630,000)	(\$2,750,000)	(\$910,000)	(\$680,000)
2030	(\$16,300,000)	(\$2,870,000)	(\$950,000)	(\$710,000)

Fiscal Analysis

The bill would set a fee of \$10,000 for initial and renewal consumable hemp product manufacturer licenses to be paid to the Department of State Health Services (DSHS) for each location where the applicant or license holder, as applicable, intends to process hemp or manufacture a consumable hemp product.

The bill would prohibit the manufacture and sale by a license holder of consumable hemp products that contain any amount of a cannabinoid other than cannabidiol (CBD) or cannabigerol (CBG).

The bill would amend consumable hemp product testing requirements and require license holders to make testing results available to DSHS.

The bill would set an annual registration fee of \$20,000 for retailers of certain consumable hemp products to be paid to DSHS for each location owned by the retailer at which those products are sold.

The bill would require sellers of consumable hemp products or property owners to provide written consent to allow DSHS, the Department of Public Safety (DPS), or other law enforcement agencies to conduct inspections and ensure compliance with applicable law.

The bill would create registration restrictions with DSHS for individuals convicted of felonies related to a controlled substance and would require additional registration requirements before a consumable hemp product could be offered for sale in the state. A manufacturer applying to register a consumable hemp product would be required to pay an application fee of \$500 to DSHS for each product. DSHS would be required to maintain a registration list on the agency's website with identifying information of each registered consumable hemp product.

The bill would prohibit DSHS from approving consumable hemp products that contain any artificial or synthetic cannabinoids, or contain or are mixed with any alcohol, tobacco, nicotine, kratom, kava, mushrooms, tianeptine, or any derivative of any of those substances.

The bill would amend deceptive trade practices and rules related to the sale or distribution of consumable hemp products to align with the prohibition of hemp products with cannabinoids other than CBD or CBG and to prohibit packaging or advertising to indicate the product is for medical use.

The bill would amend labeling requirements of consumable hemp products, require packaging that is resistant to children, prohibit displaying and marketing of consumable hemp products in a manner attractive to minors, and ban misleading packaging and labeling.

The bill would amend requirements for retail sales of consumable hemp products processed or manufactured outside of the state to ensure that they do not contain any amount of a cannabinoid other than CBD or CBG.

The bill would allow for transportation and exportation of consumable hemp products out of state ensuring compliance with federal laws and regulations.

The bill would create new offenses punishable at levels ranging from a Class C misdemeanor through a third degree felony for behaviors relating to the manufacture, testing, delivery, marketing, possession, provision, purchase, sale, distribution, or use of certain consumable hemp products.

The bill would authorize DSHS to receive and investigate complaints of violations by consumable hemp licensees and retail hemp registrants. Penalties may include revoking, suspension, or refusal to renew licenses or registration. DSHS would be authorized impose an administrative penalty in an amount not to exceed \$10,000 against a license holder or registrant for each violation.

The bill would require the Health and Human Services Commission (HHSC) to adopt rules relating to consumable hemp product registration.

Methodology

The Comptroller of Public Accounts (CPA) provided analysis of the potential sales tax changes based on the sales tax returns of businesses with a retail hemp registration in the Austin area who are primarily engaged in the selling of vaping and/or smoking supplies. The analysis assumes that Austin sales represent one quarter of the total sales of these product types statewide. The statewide total was then extrapolated forward at the same rates of growth as forecast for the limited sales and use tax in the 2026-27 Biennial Revenue Estimate, with a one month lag in collections factored for fiscal year 2026 in view of the effective date of the bill.

The analysis of consumable hemp license and retail hemp registration fees assumes that nearly all the

businesses with these licenses and registrations will cease operations due to a combination of decreased product sales and significantly higher fee rates. The higher fee rates paid by the continuing participants would offset a large portion of the fee losses from those ceasing operations.

Although not part of this analysis, DSHS estimates an increase in General Revenue in each fiscal year based on new fee amounts provided in the bill applied to the licensing fee for manufacturers and the registration fee for retailers in fiscal year 2024. DSHS' estimate assumes the same number of licensees and registrants as fiscal year 2024 under this bill; however, the CPA methodology assumes a decrease in the number of licensees and registrants due to new regulations and increases in fees that would be authorized under the bill. The estimates in the five-year impact table above are based on analysis from the CPA that assumes a loss of revenue to the state.

The number and amounts of any criminal fines and the number and amounts of any administrative penalties levied by DSHS are unknown, therefore those revenue implications cannot be determined.

The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

It is anticipated that the state court system would be able to absorb any increased case volume with available resources.

This analysis assumes that any costs associated with implementing the bill for DSHS, DPS, and HHSC could be absorbed using existing resources. Any costs faced by the State Office of Administrative Hearings related to an increased amount of hearings would be paid by DSHS and DPS in the form of interagency contracts.

Local Government Impact

There would be a corresponding loss of sales and use tax revenue from local taxing jurisdictions. The estimated losses are displayed in the above tables.

In addition, while the applicable fiscal impact cannot be determined, creating new offenses may result in additional demands upon local correctional resources due to an increase in the number of individuals placed under supervision in the community or confined locally.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 458 Alcoholic Beverage Commission, 529 Health and Human Services Commission, 537 State Health Services, Department of, 551 Department of Agriculture

LBB Staff: JMc, CMA, APA, ER, BRI, KK