

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 9, 2025

TO: Honorable Ken King, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB3** by Perry (relating to the regulation of products derived from hemp, including consumable hemp products and hemp beverages and the hemp-derived cannabinoids contained in those products; requiring occupational licenses and permits; imposing fees; creating criminal offenses; authorizing civil penalties; imposing taxes.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB3, Committee Report 2nd House, Substituted: a negative impact of (\$37,081,547) 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.

The following table shows the probable savings and cost to the state resulting from the transfer of powers and duties from the Department of State Health Services (DSHS) to the Texas Alcoholic Beverage Commission (TABC) as required by the bill.

The dedication of sales tax revenue is reflected in the table as a loss to unrestricted general revenue (GR) and included in the gain to a dedicated account (GR-D).

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2026	(\$28,612,501)
2027	(\$8,469,046)
2028	(\$14,829,046)
2029	(\$15,499,046)
2030	(\$16,169,046)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings from General Revenue Fund 1</i>	<i>Probable (Cost) from General Revenue Fund 1</i>	<i>Probable Revenue Gain/(Loss) from General Revenue Fund 1</i>	<i>Probable Revenue Gain/(Loss) from GR-Dedicated Account for Hemp Law</i>
2026	\$0	(\$28,612,501)	\$0	\$0
2027	\$1,305,571	\$0	(\$9,774,617)	\$32,410,000
2028	\$1,305,571	\$0	(\$16,134,617)	\$33,270,000
2029	\$1,305,571	\$0	(\$16,804,617)	\$45,690,000
2030	\$1,305,571	\$0	(\$17,474,617)	\$34,610,000

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from GR-Dedicated Account for Hemp Law</i>
2026	\$0
2027	(\$24,439,278)
2028	(\$12,311,678)
2029	(\$12,379,718)
2030	(\$12,638,738)

DSHS anticipates a reduction of 12.0 full-time-equivalent positions starting in fiscal year 2027. TABC anticipates a need for an additional 51.0 full-time-equivalent positions starting in fiscal year 2026 and 78.0 FTEs starting in fiscal year 2027.

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2025</i>
2026	51.0
2027	66.0
2028	78.0
2029	78.0
2030	78.0

Fiscal Analysis

The bill would add new definitions for hemp, consumable hemp product, hemp beverage, hemp retailer, hemp testing laboratory, certificate of analysis, and illicit consumable hemp product.

The bill would require the Texas Alcoholic Beverage Commission (TABC) to establish a Hemp Advisory Committee to assist in rulemaking and enforcement mechanisms for hemp beverages and hemp consumable products.

The bill would require TABC to create a new hemp beverage permit and establish rules, requirements, regulations, and training programs for the permit, products, sales, distribution, advertising, packaging and labeling, servings, and retailer signage.

The bill establishes the following fees for holders of other TABC-issued permits:

- \$1,800 for holders of package store permits;
- \$2,650 for holders of mixed beverage permits or private club registration permits;
- \$1,100 for holders of carrier permits;
- \$10,000 for holders of consumer delivery permits;
- \$5,000 for holders of a brewer's license or nonresident brewer's license;
- \$5,000 for holders of general distributor's license or branch distributor's license;
- \$1,100 for holders of brewpub licenses; and
- \$500 for holders of hemp retailer's licenses.

The bill would require TABC to approve hemp registration applications which must include a certificate of analysis issued by an approved hemp testing laboratory.

The bill would require TABC to develop a process for testing and approving all hemp beverages prior to allowing the beverage to be made available for sale. The testing shall include verifying the allowable content of delta-9 tetrahydrocannabinol present.

The bill establishes rules for excise tax rates, tax exemptions, excess tax, and tax credits and refunds on consumable hemp products. Specifically, the bill would impose excise taxes on consumable hemp products and hemp beverages at a rate of 2 cents per 2.5 milligrams of delta-9 tetrahydrocannabinol, effective January 1, 2027.

The bill dedicates the hemp products excise taxes, the license or permit fee revenue, and Chapter 151 sales tax revenue from hemp products to general revenue subject to dedication for hemp law administration and enforcement, crime laboratories, and local law enforcement response services.

The bill authorizes local election options to determine prohibition or legalization on the sale of hemp beverages or consumable hemp products.

The bill adds a new title, Title 7, to the Alcoholic Beverage Code to create provisions, responsibilities, rules, trainings, and regulations for all consumable hemp and hemp flower manufacturing, distribution, advertising, packaging, and sales.

The bill creates seven new licenses and prescribes the following fee structure:

- \$3,000 for hemp manufacturer's license;
- \$5,000 for out-of-state hemp manufacturer's license;
- \$1,500 for a hemp distributor's license;
- \$2,000 for an off-premise hemp retailer's license;
- \$4,000 for an on-premise hemp retailer's license;
- \$1,100 for a hemp carrier's license; and
- \$10,000 for a hemp consumer delivery license.

The bill dedicates the hemp product excise taxes, license or permit fee revenue, and certain sales tax revenue from hemp products for program administration and local law enforcement services. The bill describes that as being deposited in a dedicated fund in the General Revenue Fund.

The bill establishes prohibitions, allowances, denials, suspensions, and cancellations for all permits and licenses related to hemp beverages and consumable hemp products.

The bill requires that TABC and the Department of State Health Services (DSHS) collaborate to establish and adopt all rules as required. On January 1, 2027, all powers, duties, and functions of DSHS as described under the Alcoholic Beverage Code, Title 7, shall be transferred to TABC.

The bill requires TABC and the Department of Public Safety (DPS) to establish a process for random testing of consumable hemp products and hemp beverages.

The bill would expand conduct constituting existing offenses and 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, possession, purchase, sale, or distribution of certain consumable hemp products.

The Act takes effect January 1, 2027, except for certain provisions which take effect September 1, 2025.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Methodology

According to the Comptroller of Public Accounts (CPA), reliable data on sales volumes and average milligram dosages of these products in the state is not available; consequently, the total revenue to be expected from excise taxation of these products cannot be estimated. However, it is plausible to assume a minimum of \$15 million on an annual basis of net revenue in consumable hemp product and beverage excise tax revenue and that amount is included in estimates above.

Additionally, sales of hemp beverages for on-premise consumption would be subject to mixed beverage gross receipts and sales taxes. The likely sales volume and average price of such is not known, nor the extent to which such sales would represent incremental increases in sales subject to mixed beverage taxes rather than substitution for other mixed beverage sales. Consequently, the implications for mixed beverage taxes cannot be estimated.

According to the CPA, license revenue is estimated based on information from TABC, on a two-year cycle; however, it is expected 80 percent of such revenue from the first two-year cohort of licensees would be received in fiscal 2027. The dedication of sales tax revenue is reflected in table above as a loss to unrestricted general revenue and included in the gain to a dedicated account along with hemp product and beverage excise tax revenue and hemp license revenue.

This analysis assumes DSHS would still have a need for existing 12.0 FTEs to administratively closeout its hemp regulation program through fiscal year 2026 but would see a reduction of 12.0 FTEs starting in fiscal year 2027. DSHS estimates a revenue loss to the General Revenue Fund of \$1.8 million per fiscal year starting in 2027 attributable to no longer issuing consumable hemp licenses and registrations. Based on information provided by DSHS, this analysis assumes an estimated savings to the General Revenue Fund of \$1.3 million starting in fiscal year 2027 primarily attributable to the loss of these positions.

According to TABC, the agency would see a significant fiscal impact relating to the bill's requirements.

TABC would require a new licensing and case management system to regulate hemp beverages and consumable hemp products, process applications, payments, tax collections, assist with auditing processes, and add legal functionality. TABC anticipates soliciting services with an external vendor to develop the new systems, resulting in a two-year implementation process with one-time funding and ongoing subscription and support costs.

TABC anticipates one-time costs over the two-year implementation to be approximately \$17.9 million for the licensing application, \$10.5 million for a case management system, \$6.1 million for licensing professional services, and \$3.8 million for case management professional services. The agency assumed 60 percent of the technology costs would be required for the first fiscal year of implementation (2026), and 40 percent would be utilized in the second fiscal year (2027). Additionally, the agency assumed ongoing costs of approximately \$1.2 million for subscriptions and support services and \$0.7 million for data storage costs.

This analysis assumes costs in fiscal year 2026 to the General Revenue Fund and costs in fiscal year 2027 and beyond from the new General Revenue-Dedicated account created by the bill.

According to TABC, the agency would require approximately 78.0 new FTE positions within the Licensing (17.0 FTEs), Enforcement (20.0 FTEs), Audit (14.0 FTEs), Marketing (2.0 FTEs), Training (2.0 FTEs), Data Governance (5.0 FTEs), Innovation and Technology (4.0 FTEs), Business Services (5.0 FTEs), Support (1.0 FTE), Strategic Initiatives (1.0 FTE), and General Counsel (7.0 FTEs) divisions and offices to comply with the bill's requirements.

TABC assumed 51.0 FTEs with a cost of \$2.6 million from the General Revenue Fund would be required in fiscal year 2026, and 78.0 FTEs with a cost of \$6.2 million, assumed to be from the new General Revenue-Dedicated account provided by the bill, in fiscal year 2027 and beyond. Enforcement agents and auditors would not be needed in the fiscal year 2026.

According to the State Office of Administrative Hearings (SOAH), the bill's requirements relating to administrative hearings requested due to a denied, suspended, or cancelled license or application for consumable hemp may result in an increase in hearings conducted by the agency for TABC, DSHS, and the CPA. According to SOAH, the increased caseload would result in a fiscal impact to the agency. The agency assumes the need for an additional FTE, technology, and software. SOAH estimates a delayed implementation and no cost in fiscal year 2026. However, this analysis assumes the agency could absorb the additional costs within existing resources.

According to DPS, the Crime Labs would need to expand the current testing abilities and methodologies to include new THC testing. The testing time, expansion of tests, and any potential evidence storage would increase the workload and necessity for additional FTE positions. DPS anticipates the fiscal impact to the agency to be significant but is unable to determine the extent of that impact.

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.

Technology

TABC estimates a technology impact of \$23.4 million to the General Revenue Fund in fiscal year 2026 and \$9.7 million in fiscal year 2027. This analysis assumes the costs in fiscal year 2027 will be paid from the new General Revenue-Dedicated account created by the bill. The impact is due to one-time costs to contract for professional services to design and build a new licensing and case management system, and for ongoing licenses, support, and data storage.

Local Government Impact

Units of local government may see fiscal impacts related to the bill's requirements on holding local elections for hemp sales or prohibitions. Local courts may see a fiscal impact due to an increased but indeterminate number of cases and dockets relating to licensing, permits, appeals, and new offenses.

While the fiscal impact cannot be determined, expanding the conduct constituting existing offenses and 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

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