

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

March 2, 2025

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB3 by Perry (Relating to the regulation of consumable hemp products and the hemp-derived cannabinoids contained in those products; requiring a registration; imposing fees; creating criminal offenses; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB3, As Introduced: a negative impact of (\$19,270,000) 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	(\$9,040,000)
2027	(\$10,230,000)
2028	(\$10,700,000)
2029	(\$11,200,000)
2030	(\$11,690,000)

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	(\$9,040,000)	(\$1,620,000)	(\$540,000)	(\$400,000)
2027	(\$10,230,000)	(\$1,840,000)	(\$610,000)	(\$450,000)
2028	(\$10,700,000)	(\$1,920,000)	(\$640,000)	(\$470,000)
2029	(\$11,200,000)	(\$2,010,000)	(\$670,000)	(\$490,000)
2030	(\$11,690,000)	(\$2,090,000)	(\$690,000)	(\$520,000)

Fiscal Analysis

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

The bill would amend testing requirements in the processing of a hemp plant and before it is used in the manufacture of a consumable hemp product, to ensure that the product does not contain any amount of a cannabinoid other than CBD or CBG.

The bill would require the Department of State Health Services (DSHS) to amend the process for testing of cannabinoid oil at various retail and other establishments that sell or distribute the oil to ensure that the product does not contain any amount of a cannabinoid other than CBD or CBG.

The bill would require DSHS to adopt rules to require registrants to include information regarding the type and concentration of each cannabinoid present in each consumable hemp product offered for sale.

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, with regard to the packaging or advertising, to indicate the product is for medical use.

The bill would amend labeling requirements of consumable hemp products to provide the amount of CBD or CBG in a product, require packaging that is resistant to children, 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 create several criminal offenses:

- marketing, advertising, or selling edible consumable hemp products containing a hemp-derived cannabinoid in a manner or packaging that is attractive to minors would be a Class A misdemeanor;
- knowingly manufacturing, delivering, or possessing with intent to deliver a consumable hemp product with cannabinoids other than CBD and CBG would be a third degree felony;
- possession of a product that contains any amount of cannabinoid other than CBD or CBG would be a Class A misdemeanor;
- selling or distributing consumable hemp products that contains or is marketed as containing hemp-derived cannabinoids to a person under 21 would be a Class B misdemeanor;
- manufacturing, distributing, selling, or offering for sale consumable hemp product for smoking would be a Class B misdemeanor;
- selling, offering for sale, or delivering consumable hemp products in, on, or within 1,000 feet of the premises of a school would be a Class B misdemeanor; and
- providing consumable hemp products by courier, delivery, or mail service would be a Class A misdemeanor.

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 may impose up to an administrative penalty not to exceed \$10,000 against a license holder or registrant for each violation.

Methodology

The Comptroller of Public Accounts 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 ten percent of the businesses with these licenses and registrations will cease operations and not renew their licenses or registrations and were included in the losses amounts.

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.

According to DSHS, any costs associated with implementing the bill can be absorbed within existing resources, which may include information technology modifications, referrals of inspection findings to law enforcement, notification of stakeholders and training of staff of new standards, and rulemaking.

According to the Office of Court Administration, potential docket volume changes for provisions in related to new criminal offenses created in the bill cannot be projected. Therefore, the fiscal impact to the court system is indeterminate.

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.

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

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