

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION**

**March 13, 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.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB3, Committee Report 1st House, Substituted: a negative impact of (\$27,000,000) 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	(\$12,690,000)
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	(\$12,690,000)	(\$2,210,000)	(\$730,000)	(\$550,000)
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 authorize fees of \$10,000 for initial and renewal licensing fees for each location where the applicant intends to process hemp or manufacture a consumable hemp product.

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 authorize an annual registration fee of \$20,000 for each location owned by a person at which consumable hemp products are sold.

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. This information would be required by DSHS to be shared to the Texas Department of Public Safety (DPS).

The bill would require sellers of consumable hemp products or property owners to provide written consent to allow DSHS, DPS, or other law enforcement agencies to conduct inspections and ensure compliance.

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 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;
- selling a consumable hemp product with misleading packaging or indicating the product is intended for medical use 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 contain or is marketed as containing hemp-derived cannabinoids to a person under 21 would be a Class A 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;
- providing consumable hemp products by courier, delivery, or mail service would be a Class A misdemeanor;
- and
- forging, falsifying, or altering, with intent to deceive, laboratory test results required under the bill would be a third degree felony.

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 (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.

DSHS estimates an increase in General Revenue of \$102,608,750 in each fiscal year based on new fee amounts applied to the number of consumable hemp licenses/renewals and retail hemp licenses/renewals in fiscal year 2024. This estimate would assume the same number of licensees as fiscal year 2024 under this bill; however, the CPA methodology assumes a decrease in the number of licensees due to new regulations and increases in fees that would be authorized under the bill. The estimates in the five-year chart above are based on analysis from the CPA which 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.

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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