

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 7270

BILL NUMBER: HB 1224

NOTE PREPARED: Feb 15, 2021

BILL AMENDED: Feb 11, 2021

SUBJECT: Craft Hemp Flower and Hemp Production.

FIRST AUTHOR: Rep. Eberhart

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill excludes craft hemp flower from the definition of "hemp product". It also removes references to smokable hemp. The bill provides that the State Seed Commissioner may not adopt or enforce a rule that is more strict than required under federal law or regulation.

The bill removes an exemption to a person who knowingly or intentionally grows or handles smokeable hemp without a license from the penalty of growing or handling hemp without a license. The bill also repeals a law that requires that a hemp bud or a hemp flower be sold only to a processor licensed in Indiana.

It provides that a food is not considered adulterated for containing low THC hemp extract or craft hemp flower. It creates contaminant testing and packaging requirements for the distribution and sale of craft hemp flower. It establishes penalties for selling or distributing craft hemp flower in violation of the requirements.

The bill makes it a Class C infraction if a person knowingly: (1) sells or distributes craft hemp flower to a person less than 21 years of age; and (2) purchases craft hemp flower for delivery to another person who is less than 21 years of age. It provides that a retail establishment that sells or distributes craft hemp flower to a person less than 21 years of age commits a Class C infraction. It makes it a Class C infraction if a person less than 21 years of age: (1) purchases craft hemp flower; (2) accepts craft hemp flower for personal use; or (3) possesses craft hemp flower on his or her person.

The bill also provides that a person who, while a motor vehicle is in operation or located on the right-of-way of a public highway, possesses a container that contains craft hemp flower, and: (1) the container does not have tamper evident packaging; or (2) the tamper evident packaging has a broken seal; commits a Class C infraction. It provides that a violation is not considered a moving violation.

The bill defines "craft hemp flower". It provides that craft hemp flower is not included in the definition of "controlled substance analog", "hashish", "low THC hemp extract", or "marijuana". It also repeals the definition of "smokable hemp" and criminal penalties concerning smokable hemp.

It makes conforming changes and technical corrections.

Effective Date: July 1, 2021.

Explanation of State Expenditures: *Office of the Attorney General:* The bill creates requirements for packaging and distribution of craft hemp flower under trade regulation laws. The administrative expenditures and workload of the Office of the Attorney General could potentially increase to enforce the bill's requirements. The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues: *Distribution of Craft Hemp Flower:* The bill establishes requirements for the sale and distribution of craft hemp flower. A violation of these requirements would be a Class B infraction. It is a Class A infraction if the individual has a prior violation. If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class B infraction is \$1,000, which is deposited in the state General Fund. The maximum judgment for a Class A infraction is \$10,000.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, revenue from the automated record keeping fee (\$20) is deposited into the state user fee fund, and the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$3) are deposited into the state General Fund.

Age Restriction: The bill provides that the sale or distribution of craft hemp flower to a person under the age of 21 is a Class C infraction, the maximum judgment for which is \$500. The bill also makes it a Class C infraction for a retail establishment to sell craft hemp flower to a person under 21. The maximum judgment for this violation is between \$400 and \$2,000, depending on the number of violations in the previous year. Civil judgments for these violations are deposited in the Richard D. Doyle Youth Tobacco Education and Enforcement Fund. The bill also makes possession of craft hemp flower by a person under the age of 21 a Class C infraction. The maximum judgment is \$500, which would be deposited in the state General Fund.

Open Containers: The bill provides that a person who possesses an open container of craft hemp flower while in a motor vehicle that is in operation or on the right-of-way of a public highway commits a Class C infraction. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

Craft Hemp Flower Excluded from Certain Definitions: The bill excludes craft hemp flower from the definitions of hashish and marijuana. It is currently a Class A misdemeanor for dealing in these substances. Possession of hashish and marijuana is a Class B misdemeanor. If fewer court cases occur and fewer fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would decrease. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class B misdemeanor is \$1,000. However, any decrease in revenue would likely be small.

Smokable Hemp: The bill repeals a Class A misdemeanor for dealing in smokable hemp. If fewer court cases occur and fewer fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would decrease. The maximum fine for a Class A misdemeanor is \$5,000.

Explanation of Local Expenditures: *Craft Hemp Flower Excluded from Certain Definitions; Smokable Hemp:* A Class A misdemeanor is punishable by up to one year in jail, and a Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Distribution of Craft Hemp Flower; Age Restriction; Open Containers:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of an infraction are also required to pay the following fees that are deposited in local funds: the document storage fee (\$5), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

Craft Hemp Flower Excluded from Certain Definitions; Smokable Hemp: If fewer court actions occur and fewer guilty verdicts are entered, local governments would receive less revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Lauren Tanselle, 317-232-9586.