



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

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Bill Number: H. 3924 Introduced on February 6, 2025
Subject: Hemp-Derived Ingestible
Requestor: House Judiciary
RFA Analyst(s): Daigle
Impact Date: February 20, 2025

Fiscal Impact Summary

This bill creates a new Chapter 56 in Title 46 pertaining to hemp-derived consumables. This bill defines hemp-derived consumables and specifies that they may not contain chemically derived hemp cannabinoids. This bill also sets serving size limits and creates requirements for the appearance of hemp-derived consumables. Additionally, this bill requires that any person or entity who sells hemp-derived consumables must hold a valid off-premises beer and wine permit or a retail liquor store license, as defined by Title 61. This bill requires retailers of hemp-derived consumables to post signs at each permitted location and provides specifications for the signs. The Department of Agriculture must prescribe the size, lettering, and location of signs through regulations. This bill creates several new misdemeanor offenses dealing with hemp-derived consumables including those addressing people under the age of twenty-one, retailer signage, and open containers. This bill states that, given probable cause of underage consumption, a law enforcement officer may request that a person submit to any available alcohol screening test using a device approved by South Carolina Law Enforcement Division (SLED). Additionally, this bill requires the Department of Alcohol and Other Drug Abuse Services (DAODAS) to approve an alcohol prevention education or intervention program for some offenders of the new laws pursuant to this bill. This bill also requires that establishments offering hemp-derived consumable products may not be located within one thousand feet of a church or elementary, middle, or high school. This bill takes effect upon approval by the Governor.

This bill creates penalties for new misdemeanor offenses dealing with hemp-derived consumables. This bill may result in an increase in the number of summary court cases and circuit court cases and potentially the number of incarcerations, which may increase the workload of the court system and the Commission of Indigent Defense, the Commission on Prosecution Coordination, PPP, and local jails. The potential increase in expenses for each agency will depend upon the increase in the number of cases, the number of repeat offenders and number of incarcerations. These agencies indicate that if this bill results in a significant increase in the workload, then an increase in General Fund appropriations may be requested.

The Department of Corrections indicates that this bill will have no impact on the agency as this bill creates offenses that are subject to up to 30 days of imprisonment and the department only receives inmates sentenced to more than 90 days.

Judicial anticipates that the increase in cases can be initially managed within existing appropriations, but if this bill results in a significant increase in summary court cases, Judicial will request an increase in General Fund appropriations. Judicial indicates that while summary courts are locally funded, Judicial provides some resources such as court interpreters and other support staff.

SLED is required to enforce the provisions under Title 61. This bill places enforcement of the new hemp-derived consumable provisions under Title 61 and thereby creates new responsibilities for the department. SLED indicates that to properly enforce the provisions of this bill, expenses for the department will increase by approximately \$2,027,000, including \$1,365,000 recurring expenses beginning in FY 2025-26 and \$662,000 non-recurring expenses in FY 2025-26. Recurring expenditures consist of salary and fringe for 10.0 new FTEs including 1 Lieutenant, 8 Regional Agents, and 1 Administrative Assistant, as well as their associated expenses such as replacement vehicles and uniforms, gas, training, travel, technology licenses and other recurring costs. Non-recurring expenses for agents include expenditures for vehicles, protective vests and covers, Glockes, duty belts, and holsters, AR-15s, uniforms, boots, raingear, protective gloves, handcuffs, personal protective equipment (PPE), other expenses, and computer equipment. Therefore, SLED anticipates requesting approximately \$1,365,000 of recurring General Fund appropriations beginning in FY 2025-26 and \$662,000 of non-recurring General Fund appropriations in FY 2025-26 to fund the expenses due to this bill.

This bill requires the Department of Agriculture to prescribe by regulation, the size of the lettering and location of placement of the sign required for retailers by this bill. The Department of Agriculture indicates that this bill will have no impact on the department as any increase in workload is expected to be minimal and can be managed with existing staff and resources.

DAODAS indicates that any increase in workload can be managed with existing staff and appropriations as the department has existing staff with subject matter expertise to review and approve alcohol prevention education and intervention programs provided by local services providers.

The Department of Revenue (DOR) anticipates that this bill may have a minimal impact on the department in order to update forms, systems, and website information. DOR indicates that any increase in workload can be managed with existing resources.

This bill may increase General Fund revenue by an undetermined amount due to the increase in off-premises beer and wine permits and retail liquor store licenses fees. Some retailers that currently offer hemp-derived consumables already hold valid off-premises beer and wine permits or retail liquor store licenses due to the nature of their businesses. However, some existing retailers will be required to obtain such licenses, including some vape and smoke shops, or otherwise cease selling hemp-derived consumables. There is no data available on total number of businesses that currently sell hemp-derived consumables but do not have the permit or license required by this bill and that will choose to continue selling these consumables, thus needing either an off-premises beer and wine permit or a retail liquor store license. Therefore, the number

of new off-premises beer and wine permits and retail liquor licenses that will be issued and the associated fees that will be collected are unknown.

This bill may also result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, the Revenue and Fiscal Affairs Office (RFA) anticipates this bill may result in a change to General Fund, Other Funds, and local funds revenue due to the change in fines and fees collections in court.

This bill may also result in an increase in the number of summary court cases and potentially the number of persons sentenced to local jails, which may increase the workload of the court system and local jail population. The potential increase in expenses will depend upon the increase in the number of cases and number of persons sentenced to jail time. Judicial anticipates that the increase in cases can be initially managed within existing appropriations; however, they indicate that it is impossible to precisely gauge the impact this bill will have on summary court caseloads or the local jail population as there is no data available. Therefore, the potential increase in local expenses is undetermined.

Explanation of Fiscal Impact

Introduced on February 6, 2025

State Expenditure

This bill creates a new Chapter 56 in Title 46 pertaining to hemp-derived consumables. This bill defines hemp-derived consumables and specifies that they may not contain chemically derived hemp cannabinoids. This bill also sets serving size limits and creates requirements for the appearance of hemp-derived consumables. There are currently no statutes in South Carolina law regarding hemp-derived consumables intended for human ingestion made from a naturally occurring cannabinoid, although it is illegal to possess or use marijuana with a THC content above 0.3 percent. Currently, hemp-derived cannabinoid products are legal in the U.S. pursuant to the United States Agriculture Improvement Act of 2018, otherwise known as the 2018 Farm Bill. The Act of 2018 removed hemp, defined as cannabis and derivatives of cannabis with extremely low concentrations of delta-9-tetrahydrocannabinol (THC), no more than 0.3 percent THC on a dry weight basis, from the definition of marijuana in the Controlled Substances Act.¹

This bill requires that any person or entity who sells hemp-derived consumables must hold a valid off-premises beer and wine permit or a retail liquor store license, as defined by Title 61. This bill states that hemp-derived consumables may not be made available for on-premises consumption by a permitted or licensed person or entity. This bill requires retailers of hemp-derived consumables to post signs at each permitted location that states the laws in relation to possession and purchasing hemp-derived consumables by people under the age of twenty-one. The Department of Agriculture must prescribe the size, lettering, and location of signs through the use of regulations. Additionally, failing to display the required sign is a misdemeanor offense

¹ U.S. Food and Drug Administration, *Testimony of Amy Abernethy, MD, PhD., Principal Deputy Commissioner – Office of the Commissioner Before the United States Senate on Hemp Production and the 2018 Farm Bill*, Retrieved January 23, 2025, <https://www.fda.gov/news-events/congressional-testimony/hemp-production-and-2018-farm-bill-07252019>.

that carries a fine of up to \$100 or thirty days of imprisonment, or both. This bill establishes several instances in which a permit holder authorized to sell hemp-derived consumables may have their permit revoked or suspended. This bill also states that if hemp-derived consumables are sold by a person who does not have a valid permit, all hemp-derived consumables found on the premises of the person are considered contraband and must be seized by a peace officer.

This bill creates several new offenses dealing with hemp-derived consumables. This bill makes it illegal to sell a hemp-derived consumable to a person under twenty-one years old. First offense violations of this provision are fined \$200 to \$300, or imprisoned for not more than thirty days, or both. Second and subsequent offense violations must be fined \$400 to \$500, or imprisoned not more than thirty days, or both. This bill also makes it illegal for a person to give false information concerning their age in order to purchase a hemp-derived consumable illegally. Violations of this law are fined \$100 to \$200, or imprisoned for not more than thirty days, or both. Further, this bill makes it illegal for a person to lawfully purchase a hemp-derived consumable from a licensed premises and give the product to a person who cannot lawfully purchase that product from the licensed premises. First offense violations are subject to a fine of \$200 to \$300, or imprisonment for up to thirty days, or both. Second offense violations are subject to a fine of \$400 to \$500, or imprisonment for up to thirty days, or both. Additionally, this bill makes it illegal for a person to transfer or give hemp-derived consumables to a person under the age of twenty-one, with some exceptions. First offense violations of this provision are subject to a fine of \$200 to \$300, or imprisonment of not more than thirty days, or both. Second offense violations are subject to a fine of \$400 to \$500, or imprisonment of not more than thirty days, or both. This bill also makes it illegal for a person under the age of twenty-one to purchase, attempt to purchase, consume or knowingly possess hemp-derived consumables, beer, ale, porter, wine or other similar malt or fermented beverage, with some exceptions. Violators are guilty of a misdemeanor and must be fined \$100 to \$200 or imprisonment of up to thirty days, or both. Additionally, violators must successfully complete an alcohol prevention education or intervention program approved by DAODAS. This bill requires that during the first ninety days after the effective date of this act, law enforcement officers shall only issue warnings for violations. This bill states that if a law enforcement officer has probable cause to believe that a person is under the age of twenty-one and has consumed hemp-derived beverages or alcohol, the law enforcement officer may request that the person submits to any available alcohol screening test using a device approved by SLED. Testing must be under the direct supervision of a law enforcement agency, and the agency must have a person's parental consent. This bill also makes it illegal to have a hemp-derived beverage in an open container while located upon public highways or highway rights of way. Any violations of this provision are guilty of a misdemeanor and subject to a fine of not more than \$100 or imprisonment of up to thirty days.

This bill also requires that establishments offering hemp-derived consumable products may not be located within one thousand feet of a church or elementary, middle, or high school.

Additionally, this bill states that nothing in Chapter 56 of Title 46 authorizes the consumption, possession, or purchase of a hemp-derived consumable that contains tetrahydrocannabinol (THC). Although, the serving size requirements of this bill state that a hemp-derived consumable

may contain five-tenth milligrams or less of delta-9-tetrahydrocannabinol which is a type of tetrahydrocannabinol. This bill takes effect upon approval by the Governor.

This bill creates penalties for new misdemeanor offenses dealing with hemp-derived consumables. This bill may result in an increase in the number of summary court cases and circuit court cases and potentially the number of incarcerations, which may increase the workload of the court system and the Commission of Indigent Defense, the Commission on Prosecution Coordination, PPP, and local jails. The potential increase in expenses for each agency will depend upon the increase in the number of cases, the number of repeat offenders, and the number of incarcerations. These agencies indicate that if this bill results in a significant increase in the workload, then an increase in General Fund appropriations may be requested.

The Department of Corrections indicates that this bill will have no impact on the agency as this bill creates offenses that are subject to up to 30 days of imprisonment and the department only receives inmates sentenced to more than 90 days. Those sentenced to 90 days or less remain in local detention centers.

South Carolina Law Enforcement Division. SLED is required to enforce the provisions of Title 61 which regulates beer, wine, and spirits. This bill places enforcement of the new hemp-derived consumable provisions under Title 61 and thereby creates new responsibilities for the department. SLED indicates that to properly enforce the provisions of this bill, expenses for the department will increase by approximately \$2,027,000, including \$1,365,000 recurring expenses beginning in FY 2025-26 and \$662,000 non-recurring expenses in FY 2025-26. Recurring expenses consist of expenditures for 10.0 new FTEs including approximately \$148,000 for salary and fringe for 1 Lieutenant responsible for supervising the new agents, \$852,000 for salary and fringe and \$55,000 for overtime salary and fringe for 8 Regional Agents responsible for carrying out the day-to-day functions of the narcotics unit, and \$64,000 for salary and fringe for 1 Administrative Assistant responsible for providing administrative support for the narcotics unit. Recurring expenses also include approximately \$76,000 for gas, \$7,000 for phones with hotspot capabilities, \$14,000 for mobile and portable 800 radio service, \$5,000 for other recurring costs, \$5,000 for uniform replacements, \$15,000 for training and travel, \$11,000 for technology licenses, \$108,000 for 1/5 vehicle replacements, and \$5,000 for evidence and storage destruction. Non-recurring expenses for agents include \$540,000 for vehicles, \$27,000 for protective vests and covers, \$10,000 for Glockes, duty belts, and holsters, \$10,000 for AR-15s, \$41,000 for uniforms, boots, raingear, protective gloves, handcuffs, PPE, and other expenses, and \$30,000 for computer equipment. Therefore, SLED anticipates requesting approximately \$1,365,000 of recurring General Fund appropriations beginning in FY 2025-26 and \$662,000 of non-recurring General Fund appropriations in FY 2025-26 to fund the expenses due to this bill.

Judicial. This bill creates several summary court misdemeanors related to the possession and sale of hemp-derived consumables. Judicial indicates that the possession and sale of hemp-derived consumables is not currently covered by state law. Judicial reports that this bill would require summary courts to hear additional misdemeanor cases, which they would do in their ordinary course of business; however, it is impossible to precisely gauge the impact this bill will have on summary court caseloads as there is no data available to estimate the increase in

caseloads. Judicial indicates that while summary courts are locally funded, Judicial provides some resources such as court interpreters to the summary courts. Judicial anticipates that the increase in cases and associated resources can be initially managed within existing appropriations. However, if this bill results in a significant increase in summary court cases and, consequently, in state resources such as court interpreters, Judicial will request an increase in General Fund appropriations.

Department of Agriculture. This bill requires the Department of Agriculture to prescribe by regulation, the size of the lettering and location of placement of the sign required by this bill for retailers. The Department of Agriculture indicates that this bill will have no impact on the department as any increase in workload is expected to be minimal and can be managed with existing staff and resources.

Department of Alcohol and Other Drug Abuse Services. This bill creates additional workload for DAODAS as it requires the department to approve an alcohol prevention education or intervention program of a minimum of 8 hours with a cost not exceeding \$150. DAODAS indicates that any increase in workload can be managed with existing staff and appropriations as the department has existing staff with subject matter expertise to review and approve programs provided by local services providers.

Department of Revenue. DOR must administer the provisions of Title 61 and has the sole and exclusive power to issue all licenses, permits, and certificates provided for in this title. DOR currently issues beer and wine permits and retail liquor licenses during the department's normal course of business. DOR anticipates that this bill may have a minimal impact on the department in order to update forms, systems, and website information and indicates that any increase in workload can be managed with existing resources.

State Revenue

This bill requires that any person or entity who sells hemp-derived consumables must hold a valid off-premises beer and wine permit or a retail liquor store license, as defined by Title 61. Off-premises beer and wine permits are currently subject to a \$300 non-refundable filing fee and a \$600 biennial fee for the retail permit. A separate off-premises beer and wine permit is required for each separate place of business. Retail liquor store licenses are currently subject to a \$200 non-refundable filing fee and a \$1,400 biennial renewal fee.

This bill may increase General Fund revenue by an undetermined amount due to the increase in off-premises beer and wine permits and retail liquor store licenses fees. Some retailers that currently offer hemp-derived consumables already hold valid off-premises beer and wine permits or retail liquor store licenses due to the nature of their businesses. However, some existing retailers will be required to obtain such licenses, including some vape and smoke shops, or otherwise cease selling hemp-derived consumables. There is no data available to estimate the total number of businesses that currently sell hemp-derived consumables but do not have the permit or license required by this bill and that will choose to continue selling these consumables, thus requiring either an off-premises beer and wine permit or a retail liquor store license. Therefore, the number of new off-premises beer and wine permits and retail liquor licenses that

will be issued and the associated fees that will be collected are unknown. Furthermore, some businesses who currently have on-premises consumption licenses or permits as well as brewpubs, breweries, and wineries are already currently offering hemp-derived consumables available for on-premises and off-premises consumption. While this bill specifies that hemp-derived consumables may not be made available for on-premises consumption by a person or entity in possession of a permit or license issued pursuant to Title 61, it does not address whether these businesses would be required to obtain a separate license in order to sell their hemp-derived consumable products for off-premises consumption; and thereby, the number of businesses that currently sell hemp-derived consumables and hold a permit or license pursuant to Title 61, other than the off-premises beer and wine permit or retail liquor store license, and that may be required to obtain an additional permit or license pursuant to Title 61 in order to sell their hemp-derived consumable products for off-premises consumption is unknown. Therefore, the total increase to General Fund revenue due to the increase in off-premises beer and wine permits and retail liquor store licenses fees is undetermined.

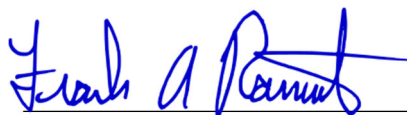
This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates that this bill may result in a change to General Fund and Other Funds revenue due to the change in fines and fees collections in court.

Local Expenditure

This bill may result in an increase in the number of summary court cases and potentially the number of persons sentenced to jail time, which may increase the workload of the court system and local jails. The potential increase in expenses will depend upon the increase in the number of cases and number of sentences. Judicial anticipates that the increase in cases can be initially managed within existing appropriations; however, they indicate that it is impossible to precisely gauge the impact this bill will have on summary court caseloads as there is no data available to estimate the increase in caseloads and thereby the increase in the local jail population. Therefore, the potential increase in local expenses is undetermined.

Local Revenue

This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates that this bill may result in a change to local revenue due to the change in fines and fees collections in court.



Frank A. Rainwater, Executive Director