

# HB 1148 - SB 1236

## FISCAL NOTE



Fiscal Review Committee  
Tennessee General Assembly

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**SUMMARY OF BILL:** Adds Tetrahydrocannabiphorol (THCp) and Tetrahydrocannabinolic acid (THCa) to the list of Schedule VI controlled substances. Excludes THCp and THCa from the definition of hemp-derived cannabinoids. Creates a Class A misdemeanor offense for manufacturing, producing, or selling a product containing THCp or THCa.

Amends the definitions of hemp, decarboxylation, and total THC to align with 7 CFR 990.1. Requires the Department of Agriculture (DOA) to use post-decarboxylation to sample and analyze hemp-derived cannabinoid products (HDCP). Authorizes DOA to sample and analyze HDCP produced, distributed, and offered for sale in the state.

### FISCAL IMPACT:

#### NOT SIGNIFICANT

Assumptions:

#### *Schedule VI Controlled Substance and Hemp-Derived Cannabinoids*

- The proposed legislation adds THCa and THCp as Schedule VI controlled substances.
- Pursuant to Tenn. Code Ann. § 39-17-417(g)(1), the sale, manufacture, delivery of, and possession with intent to sell, manufacture, or deliver a Schedule VI controlled substance classified as marijuana containing not less than one half ounce nor more than ten pounds, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish), containing not more than two pounds of hashish is a Class E felony offense.
- Pursuant to Tenn. Code Ann. § 43-27-101(3), hemp means the plant *cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.
- Pursuant to Tenn. Code Ann. § 39-17-415(c), under current law hemp is not categorized as a controlled substance; therefore, under the proposed legislation THCa and THCp would be both, an allowable and a scheduled controlled substance.
- Pursuant to Tenn. Code Ann. § 43-27-202(2)(A)(i)-(ii), hemp-derived cannabinoid means:
  - A cannabinoid other than delta-9 tetrahydrocannabinol, or an isomer derived from such cannabinoid, that is derived from hemp in a concentration of more than 0.1 percent; or

- A hemp-derived product containing delta-9 tetrahydrocannabinol in a concentration of 0.3 percent or less on a dry weight basis.
- Pursuant to Tenn. Code Ann. § 43-27-202(2)(B)-(C), a hemp-derived cannabinoid:
  - Includes, but is not limited to:
    - Delta-8 tetrahydrocannabinol;
    - Delta-10 tetrahydrocannabinol;
    - Hexahydrocannabinol;
    - Tetrahydrocannabiphorol (THCp);
    - Tetrahydrocannabivarin (THCv); and
    - Tetrahydrocannabinolic acid (THCa).
  - Does not include:
    - Cannabichromene (CBC/CBCa/CBCv);
    - Cannabicitran (CBT/CBTa);
    - Cannabicyclol (CBL/CBLa);
    - Cannabidiol (CBD/CBDa/CBDv/CBDp);
    - Cannabielsoin (CBE/CBEa);
    - Cannabigerol (CBG/CBGa/CBGv/CBGm);
    - Cannabinol (CBN/CBNa); Cannabivarin (CBV/CBVa);
    - Hemp-derived feed products;
    - Hemp-derived fiber, grain, or topical products; or
    - A substance that is categorized as a Schedule I controlled substance on or after July 1, 2023, including a substance that may be identified in subdivision (2)(B);
- The proposed legislation revises the definition of hemp-derived cannabinoid to establish that it does not include THCa or THCp.
- However, the proposed legislation does not address that THCa and THCp are included in the existing definition of hemp-derived cannabinoid; therefore, THCa and THCp would be both permitted and prohibited under the proposed legislation.
- There will not be an increase in admissions for state or local incarceration because THCa and THCp would still be allowable hemp-derived cannabinoids under the proposed legislation.
- There will not be a sufficient change in the number of prosecutions for state or local government to experience any significant change in revenue or expenditures.

#### *New Class A Misdemeanor Offense*

- Pursuant to Tenn. Code Ann. § 43-27-203, it is an offense for a person or entity to engage in the business of manufacturing, producing, or selling products containing a hemp-derived cannabinoid in this state without a valid license.
- The proposed legislation creates a Class A misdemeanor offense for knowingly manufacturing, producing, selling, or offering for sale a product containing THCp or THCa.
- However, the proposed legislation does not address that THCa and THCp are included in the existing definition of hemp-derived cannabinoid; therefore, THCa and THCp would be both permitted and prohibited under the proposed legislation.
- There will not be a sufficient change in the number of prosecutions for state or local government to experience any significant change in revenue or expenditures.

- It is assumed that the courts can accommodate any increase in caseloads within existing resources.

*Testing by the Department of Agriculture and Overall Sales*

- Pursuant to Tenn. Code Ann. § 43-27-207, testing of substances must sample and analyze products containing a hemp-derived cannabinoid produced, distributed, or offered for sale in this state for cannabinoid concentrations, tested according to protocols prescribed by rule. Departmental testing methods must employ liquid chromatography tandem mass spectrometry, in a manner similarly reliable to post-decarboxylation, to determine a cannabinoid profile of samples tested, including their THC concentrations.
- The proposed language requires the Department of Agriculture to execute departmental testing by post-decarboxylation, only.
- The Department can conduct testing by post-decarboxylation within existing resources; therefore, the fiscal impact is estimated to be not significant.
- The proposed legislation allows DOA to sample and analyze hemp-derived cannabinoid products produced, distributed, and offered for sale in the state. Under current law, DOA is only authorized to sample and analyze HDCP produced, distributed, or offered for sale.
- The proposed legislation does not mandate DOA to conduct additional testing, it expands the type of HDCP the Department is authorized to sample and analyze; therefore, the estimated fiscal impact for state expenditures is not significant.
- The impact on overall sales of products containing THC is assumed to be not significant. Therefore, any impact on state or local tax revenue will be not significant.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive, flowing style.

Bojan Savic, Executive Director