

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 24, 2025

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB3** by Perry (Relating to the regulation of products derived from hemp, including consumable hemp products and hemp beverages and the hemp-derived cannabinoids contained in those products; requiring occupational licenses and permits; imposing fees; creating criminal offenses; authorizing civil penalties; imposing taxes.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB3, As Passed 2nd House: 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) by a license holder.

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 amend testing requirements before a consumable hemp product is sold at retail or otherwise introduced into commerce in the state.

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 to be paid to DSHS for each location owned by a person at which consumable hemp products are sold.

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

The bill would require additional registration requirements before a consumable hemp product is offered for sale in the state. The manufacturer of the product before selling a product to a retailer must register and pay a fee of \$500 to DSHS for each consumable hemp product and receive approval from DSHS. DSHS would be required to maintain a registration list on the agency's website with identifying information of each registered consumable hemp product. Each consumable hemp product must ensure that packaging and containers include a QR code that links to the registration list at DSHS.

The bill would prohibit DSHS from approving consumable hemp products that contain any artificial or synthetic cannabinoids, or contain or are mixed with any alcohol, tobacco, nicotine, kratom, kava, mushrooms, or any derivative of any of those items.

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 new offenses punishable at levels ranging from a Class C misdemeanor through a third degree felony for behaviors relating to the manufacture, testing, delivery, marketing, possession, provision, purchase, sale, distribution, or use of certain consumable hemp products.

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 renewal 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.

The Health and Human Services Commission (HHSC) would be authorized to adopt rules under the bill.

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.

Although not part of this analysis, DSHS estimates an increase in General Revenue of \$183,297,650 in each fiscal year based on new fee amounts provided in the bill applied to the licensing fee for manufacturers and the registration fee for retailers in fiscal year 2024. DSHS' estimate assumes the same number of licensees and registrants as fiscal year 2024 under this bill; however, the CPA methodology assumes a decrease in the number of licensees and registrants 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.

This analysis assumes that any costs associated with implementing the bill for DSHS, DPS, and HHSC can be absorbed within existing resources

According to the Office of Court Administration, it is anticipated that the state court system would be able to absorb any increased case volume with available resources. No significant fiscal impact to the state court system is anticipated.

The State Office of Administrative Hearings (SOAH) estimates a significant fiscal impact due to the proposed licensing scheme creating new types of cases and increase number of hearings conducted for DSHS. SOAH estimates that there are over 9,000 consumable hemp retailers currently operating in Texas and an unknown number of manufacturers and distributors. Due to the unknown numbers of new licenses, registrations and other related enforcement activity as a result of this bill, the volume of expected contested cases associated with licensing and enforcement activities, and thus the full fiscal impact, cannot be estimated at this time.

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, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 458 Alcoholic Beverage Commission, 529 Health and Human Services Commission, 537 State Health Services, Department of, 551 Department of Agriculture

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