

CORRECTIONS IMPACT STATEMENT

SESSION: 24RS BILL #: SB 382 Introduced. BR #: 1404

BILL SPONSOR(S): Sen. D. Yates AMENDMENT SPONSOR(S):

TITLE: AN ACT relating to the regulation of cannabis and making an appropriation therefor.

SUMMARY OF LEGISLATION: Establish KRS Chapter 245, relating to adult use cannabis, to administer its cultivation, processing, transportation, sale, use, taxation, and licensing; define terms; establish the Adult Use Cannabis Control Board and its membership, procedures, powers, and duties; direct the board to promulgate administrative regulations for the administration and enforcement of the chapter; set up advisory committees appointed by the board; create the Department of Cannabis Control within the Public Protection Cabinet for the oversight of cannabis operations and to provide administrative support for the board; establish various one-year business licenses under the chapter; grant administrative hearings under KRS Chapter 13B to appeal a license denial or revocation; forbid an employer from discriminating against applicants or employees who use cannabis outside of working hours as long as the use does not affect job performance; prohibit a person under the age of 21 from purchasing, possessing, consuming, or using cannabis; establish a revolving account called the cannabis fund to collect cannabis licensing fees, fines, excise taxes, and any other funds; form the Social Impact Council as a public agency authorized to distribute moneys from the cannabis fund; set council membership, procedures, powers, and duties; amend KRS 2.015 to require a person to be 21 years of age or older to purchase cannabis and its products and accessories; create a new section of KRS Chapter 65 to authorize local governments to levy up to a 5% license fee on the gross receipts of a retailer or microbusiness; allow overlapping local governments to agree to levy a combined license fee, with set fee amounts absent an agreement; create new sections of KRS Chapter 138 to define terms; impose an initial excise tax rate of 9% on the first sale or transfer of harvested cannabis; allow the Adult Use Cannabis Control Board to set the excise tax rate in each subsequent year; establish excise tax reporting, collection, and liability; amend KRS 138.870 and 260.850 to exclude adult use cannabis from the definitions of "controlled substance," "marijuana," "hemp," and "hemp products"; create new sections of KRS Chapter 218A and amend KRS 218A.010, 218A.1421, 218A.1422, 218A.1423, and 218A.500 to exempt licensed adult use cannabis activities from criminal marijuana offenses; create a new section of KRS Chapter 431 to allow a person to petition the court to expunge the person's misdemeanor marijuana convictions; amend KRS 431.079 to exclude the expungement petition from the certification of eligibility requirement; amend KRS 131.1815 to notify the Adult Use Cannabis Control Board if a cannabis licensee is a delinquent taxpayer; amend KRS 600.020 to include cannabis offenses in the list of juvenile status offenses; amend KRS 12.020 to add the governmental entities created in KRS Chapter 245 to the list of executive branch government bodies; set initial terms for members of the Adult Use Cannabis Control Board and Social Impact Council; apply the excise tax beginning on July 1, 2025, and allow cannabis sales beginning on July 1, 2026; Section 35 of Act, relating to expungement, is RETROACTIVE; APPROPRIATION.

AMENDMENT:

This bill amendment committee substitute is expected to:

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| <input checked="" type="checkbox"/> Have the following Corrections impact | <input type="checkbox"/> Have no Corrections impact. |
| <input checked="" type="checkbox"/> Creates new crime(s) | <input checked="" type="checkbox"/> Repeals existing crime(s) |
| <input type="checkbox"/> Increases penalty for existing crime(s) | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration | <input checked="" type="checkbox"/> Decreases incarceration. |
| <input type="checkbox"/> Reduces inmate/offender services | <input type="checkbox"/> Increases inmate/offender services. |
| <input type="checkbox"/> Increases staff time or positions | <input type="checkbox"/> Reduces staff time or positions. |
| <input type="checkbox"/> Changes elements of the offense for existing crime(s) | |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain): | |

STATE IMPACT: Class A, B, & C felonies are based on an average daily prison rate of \$116.93. Community Custody Class C and most Class D felons are housed in one of seventy-four (74) full-service or regional jails for up to five (5) years. Department of Corrections cost to incarcerate a felony

inmate in jail is \$44.97 per day, which includes \$35.34 per diem, medical costs, and central office administrative costs (substance abuse treatment not included).*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The legislation would likely have a minimal decrease in operational costs as it decriminalizes certain circumstances of marijuana use.

There is a potential to increase expungements received by the department. A minimum of two additional administrative staff will be needed to process additional expungements.

The new exceptions relating to cannabis could potentially decrease the number of people arrested/sentenced. This could decrease the amount of people arrested/sentenced. Class D felons and some Class C felons serve their sentence in a county jail, for which DOC pays counties a per diem for housing those inmates.

LOCAL IMPACT: Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until the disposition of the case. The estimated impact will be based on the \$44.97 cost to incarcerate for the Department of Corrections, including \$35.34 per diem and medical that DOC pays jails to house felony offenders. This cost to incarcerate may not be the actual housing cost for the jail.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The legislation would likely have a minimal impact at the local level. This bill decriminalizes certain circumstances of marijuana use but also establishes a new class B misdemeanor.

Any new Class B misdemeanor would be housed in jail dependent on other convictions. A Class B misdemeanor is up to 90 days in jail. One (1) Class B misdemeanor: up to \$4,047.30.

The bill provides new exceptions for trafficking, possession, and cultivation of marijuana that would no longer be criminal, which would potentially decrease the number of people arrested/sentenced. Since all misdemeanants and Class D felons and some Class C felons serve their sentence in a county jail, the population of local facilities could be directly impacted.

PROJECTED IMPACT FROM AMENDMENTS: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

The following offices contributed to this Corrections Impact Statement:

Dept. of Corrections Dept. of Kentucky State Police Administrative Office of the Courts Parole Board Other

NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population, lengthen the term of incarceration, or impose new obligations on state or local governments.

APPROVED BY: 

Chief of Staff, Kentucky Department of Corrections

3/12/2024

Date