



[SF 2352](#) – Consumable Hemp, Penalties and Licensing (LSB5341SV)
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Fiscal Note Version – New

Description

[Senate File 2352](#) makes various changes to the Iowa Hemp Act.

Division I of the Bill does the following:

- Updates the definition of a consumable hemp product to require that the product's maximum tetrahydrocannabinol (THC) concentration be less than or equal to the maximum THC concentration allowed in Iowa Code section [124.204\(7\)](#).
- Updates the requirements for manufacturing, selling, or consuming a consumable hemp product to require that the product complies with restrictions set forth in rules adopted by the Department of Health and Human Services (HHS).
- Prohibits a person from possessing, using, manufacturing, marketing, transporting, delivering, or distributing a consumable hemp product if the product is capable of inhalation by using a method outlined in Iowa Code section [204.14A](#). A person who violates this provision is guilty of a serious misdemeanor.
- Creates a civil penalty not to exceed \$10,000 per day for a person who is engaged in the retail sale of a consumable hemp product and has failed to register with the HHS.
- Creates a serious misdemeanor for a person who is engaged in the retail sale of consumable hemp products but has not registered with the HHS and for selling a consumable hemp product that is advertised as a consumable hemp product but is not a consumable hemp product.
- Creates a simple misdemeanor for a person who sells, gives, or distributes a consumable hemp product to a person under the age of 21.
- Specifies that a person under the age of 21 who consumes, possesses, purchases, or attempts to purchase a consumable hemp product is subject to a scheduled violation. In addition, the person is subject to a court appearance where the court shall sentence the person to a number of hours of community service depending on the number of violations. A person under the age of 21 does not violate the Bill if the person is possessing a consumable hemp product as part of the person's employment or if the person is working under the direction or consent of the Department of Public Safety (DPS) or local law enforcement.
- Provides scheduled violations for a person under the age of 21 who violates the Bill. For a first violation, there is a scheduled fine of \$70; for a second violation, a scheduled fine of \$135; and for a third or subsequent violation, a scheduled fine of \$325. These scheduled violations are not subject to the Crime Services Surcharge or court costs otherwise added to scheduled violations. Any fines paid for these violations are retained by the city or county that enforced the violation.
- Allows the HHS to order the confiscation and disposal of a hemp product if the product is in violation of this Bill, requires the HHS to deliver any sample of the product to the DPS or local law enforcement, and requires a person who is registered with the HHS to pay for the cost incurred by the HHS for the destruction of the product.

Division II of the Bill does the following:

- Adds the prohibition of a person holding a retail alcohol license and the person's agents or employees from selling, giving, or otherwise supplying any alcoholic beverage containing THC, as described in Iowa Code chapter [124](#) and Iowa Code section [123.49](#).
- Prohibits a person holding a license, permit, or certificate of compliance from manufacturing, importing, or selling at wholesale an alcoholic beverage containing THC as described in Iowa Code chapter 124.

Background

Iowa Code chapter [204](#), known as the Iowa Hemp Act, was created in 2019 and governs the production and sale of products derived from hemp. Hemp is defined as a species of cannabis that has a maximum concentration of delta-9 THC that does not exceed 0.3% on a dry weight basis. The current definition does not include hemp products that are intended to be inhaled and does not specify an age limit on the use of consumable hemp products.

The Iowa Hemp Act prohibits a person from possessing, using, manufacturing, marketing, transporting, delivering, or distributing harvested hemp or a hemp product if the intended use is introduction into the body through an electronic, chemical, or mechanical process, or a device such as a cigarette, cigar, cigarillo, or pipe. Any person who manufactures or sells a consumable hemp product must register with the HHS.

Iowa Code chapter [123](#) provides regulation on alcoholic beverages in the State. A violation of Iowa Code section 123.49 is a simple misdemeanor, while a general violation of Iowa Code chapter 123 is a serious misdemeanor for a first and second offense and an aggravated misdemeanor for a third and subsequent offense.

A simple misdemeanor is punishable by confinement for up to 30 days in jail and a fine of at least \$105 but no more than \$855. A serious misdemeanor is punishable by confinement for up to one year and a fine of at least \$430 but no more than \$2,560. An aggravated misdemeanor is punishable by confinement for up to two years and a fine of at least \$865 but no more than \$8,540.

Assumptions

- There may be an increase in simple, serious, and aggravated misdemeanors as a result of this Bill, but the number is unknown.
- There may be an increase in the number of scheduled violations as a result of this Bill, but the number is unknown.
- Registration revenue collected by the HHS may decrease, but the amount of this decrease is unknown.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.
- The marginal cost per day in prison is \$24.94.

Correctional Impact

Senate File 2352 creates and expands criminal offenses. As a result, the correctional impact cannot be estimated due to a lack of existing data. **Figure 1** shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; length of stay (LOS) in months under those supervisions; and supervision marginal costs per day for serious and aggravated misdemeanors. A conviction for a simple misdemeanor does not result in a prison sentence but does carry the possibility of confinement in jail for up to 30 days. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 16, 2024, for information related to the correctional system.

Figure 1 — Sentencing Estimate and Length of Stay (LOS)

Conviction Offense Class	Percent Ordered to State Prison	FY 2023 Avg LOS in Prison (All Releases)	Marginal Cost per Day in Prison	Percent Ordered to Probation	FY23 Field Avg LOS on Probation	Avg Cost per Day on Probation	Percent sentenced to CBC Residential Facility	Marginal Cost CBC per Day	Percent Ordered to County Jail	Marginal Cost per Day Jail	FY23 Field Avg LOS on Parole	Marginal Cost per Day Parole
Aggravated Misdemeanor	47.6%	10.6	\$24.94	67.6%	25.1	\$ 7.67	5.2%	\$ 20.00	55.9%	\$ 50.00	6.7	\$ 7.67
Serious Misdemeanor	1.7%	6.6	\$24.94	53.0%	19.2	\$ 7.67	1.2%	\$ 20.00	74.2%	\$ 50.00	N/A	\$ 7.67

Minority Impact

Senate File 2352 creates and expands criminal offenses, and the minority impact cannot be determined due to lack of conviction data. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 16, 2024, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact cannot be estimated due to a lack of existing data. **Figure 2** shows the average State cost per offense for an aggravated misdemeanor, serious misdemeanor, and simple misdemeanor.

Figure 2 — Average State Cost Per Offense

Offense Class	Average Cost
Aggravated Misdemeanor	\$7,500 to \$10,800
Serious Misdemeanor	\$400 to \$6,900
Simple Misdemeanor	\$40 to \$400

Revenue from scheduled violations paid to cities and counties for violations under the Bill cannot be estimated.

There may be a loss of revenue from registration fees associated with consumable hemp products, but the impact is unknown.

Sources

Criminal and Juvenile Justice Planning, Department of Management
 Department of Health and Human Services
 Legislative Services Agency

/s/ Jennifer Acton

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
