



[HF 2581](#) – Hemp Consumer and Public Safety (LSB5404HV)
Staff Contact: Christin Mechler (515.250.0458) christin.mechler@legis.iowa.gov
Fiscal Note Version – New

Description and Background

[House File 2581](#) amends several provisions of [Senate File 599](#) (Iowa Hemp Act), as enacted in 2019, including associated provisions of new Iowa Code chapter [204](#). Senate File 599 authorized the production of *sativa L.*, a certain type of cannabis, as well as the manufacture, sale, and transportation of hemp products if such products contain no more than 0.3% of a delta-9 tetrahydrocannabinol (THC).

The [federal Agriculture Improvement Act of 2018](#), commonly known as the 2018 Farm Bill, included provisions authorizing the production of hemp, allowing states and tribes to assume primary regulatory authority over the production of hemp by submitting a plan of approval by the USDA. At this time, the USDA has not approved or denied Iowa's state plan. The Iowa Hemp Act is to be implemented on the publication date of the Iowa Administrative Bulletin that includes an approval statement of Iowa's state plan from the USDA.

[House File 2581](#) relates to the regulation of hemp as a commodity and allows for the manufacture, sale, and consumption of consumable hemp products by humans and animals, if all of the following provisions apply:

- The consumable hemp product was manufactured in Iowa in compliance with Iowa Code chapter [204](#).
- The hemp contained in the consumable hemp product was produced exclusively in Iowa in compliance with Iowa Code chapter [204](#).
- The consumable hemp product complies with certain packaging and labeling requirements.

The Bill defines “consumable hemp product” as a hemp product that includes a substance that is metabolized or is otherwise subject to a biotransformative process when introduced into the human or animal body and allows the importation of consumable hemp if the state or jurisdiction from which the product is being imported has a United States Department of Agriculture (USDA) approved state hemp plan and testing requirements substantially similar to requirements for the State of Iowa. The Bill also provides regulation regarding the registration and licensing of manufacturers and sellers of consumable hemp to be completed by the Department of Inspections and Appeals (DIA) and the Iowa Department of Agriculture and Land Stewardship (IDALS), including establishing a temporary permit, and provides for total delta-9 tetrahydrocannabinol acid (THCA) crop testing procedures and requirements for the IDALS and the Department of Public Safety (DPS) and local law enforcement. The Bill also requires disposal of nonqualifying consumable hemp and eliminates a provision that allows a derivative of hemp to be added to certain products intended for human and animal consumption.

House File 2581 also prohibits possessing, using, manufacturing, marketing, transporting, delivering, or distributing harvested hemp or a hemp product if the intended use of such harvested hemp or hemp product is introduction into the body of a human or animal through any method of inhalation. This includes methods using cigarettes, cigars, cigarillos, and pipes, and

smoke from combustion and vapor devices. Prohibition of such activity is not applicable to any extent that the federal government, including the federal Food, Drug, and Cosmetic Act, allows for the use of harvested hemp or a hemp product by method of inhalation. A person who violates the prohibition of ingesting harvested hemp or a hemp product through the methods mentioned above is guilty of a serious misdemeanor and is subject to a civil penalty of not less than \$500 and not more than \$2,500, as imposed, assessed, and collected by the IDALS.

A serious misdemeanor is punishable by confinement for no more than one year and a fine of at least \$315 but not more than \$1,875.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- 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.
- Quantification testing for what is commonly known as THC and total THCA varies significantly in method, procedure, and instrumentation. It is likely that local law enforcement agencies who currently perform identification analysis would not be able to quantify THC and THCA. As a result, those cannabis items traditionally tested by local law enforcement would now need to come to the DPS Division of Criminal Investigation laboratory.
- The DPS assumes both THC and THCA quantification will be required on a significant amount of crop testing, and would need to hire additional staff and invest in specific testing technology to accommodate the provisions of HF 2581. All cases involving any species of cannabis submitted to the DCI Lab would need to undergo additional analysis to quantify the concentration of THC and THCA, to assess if the total is above the 0.3% threshold.
- In order to effectively register manufacturers and sellers of consumable hemp, the DIA estimates that it will need to establish new labeling, inspection, and compliance regulations. The DIA also assumes that it would need to enhance its current electronic registration system.
- Should the current electronic registration be incompatible with the requirements of the Bill, the DIA assumes it would need to invest in a new system. The DIA assumes such a system could range in cost of approximately \$229,000 to \$349,000 for implementation, and \$56,000 to \$87,000 for maintenance and upkeep. The fiscal estimate in **Table 2** uses a midpoint for this range in order to provide a general cost estimate of HF 2581.
- Additionally, the DIA assumes it would need to hire additional personnel to accommodate the increased amount of registration and licensing requirements included in the Bill.
- The IDALS assumes that the Department may be required to consider hemp products for inclusion in livestock feed or pet food, impacting the ability for the Department to conduct inspections as required by the federal Food and Drug Administration (FDA).
- In order to comply with the provisions of HF 2581, the IDALS assumes it would be unable to complete inspections correctly and safely. Acting out of compliance with federal standards may lead to the loss of federal funding, specifically to the Feed and Fertilizer Bureau. The IDALS assumes it could lose up to \$800,000 in federal and grant funding, which equates to approximately 53.0% of the Feed and Fertilizer Bureau's total budget.

Correctional Impact

The correctional impact of HF 2581 cannot be determined. The Bill establishes a new offense, and the number of convictions cannot be estimated.

The table below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for all convictions of a serious misdemeanor. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 16, 2020, for information related to the correctional system.

Table 1 — Sentencing Estimates

| Conviction Offense Class | Percent to Prison | FY 19 Avg Length of Stay Prison (months) | FY 19 Marginal Cost/Day Prison | FY 19 Avg Length of Stay Probation (months) | FY 19 Avg Cost/Day Probation | Percent to CBC | FY 19 Avg Length of Stay Parole (months) | FY 19 Marginal Cost/Day Parole | Percent to County Jail | Marginal Cost/Day |
|--------------------------|-------------------|--|--------------------------------|---|------------------------------|----------------|--|--------------------------------|------------------------|-------------------|
| Serious Misdemeanor | 2.0% | 5 | \$20.38 | 13.4 | \$6.12 | 1.0% | 2.4 | 6.12 | 69.0% | \$50.00 |

Minority Impact

The minority impact of HF 2581 is unknown. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 15, 2020, for information related to minorities in the criminal justice system.

Fiscal Impact

House File 2581 establishes a new criminal offense, and the resulting cost to the Justice System cannot be estimated. The average State cost for one serious misdemeanor conviction ranges from \$410 to \$4,900. This estimate includes operating costs incurred by the Judicial Branch, the State Public Defender, and the Department of Corrections for one conviction. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Any revenue collected by the IDALS as a result of the civil penalty established by the Bill will be deposited in the General Fund, but is expected to be minimal.

The Bill also allows both the IDALS and the DIA to establish registration, licensing, and inspection fees pursuant to each Department's rulemaking authority. At this time, it is unknown how each Department will charge for registration, licensing, and inspection fees, and it is not possible to estimate any amount of collected fee revenue.

The identifiable fiscal impact of HF 2581 is estimated to range from \$1.8 million to \$2.1 million annually. The table below provides detail on estimated costs per affected State agency.

Table 2 — Estimated Costs, [HF 2581](#)

| Agency | Cost | |
|---|---------------------|---------------------|
| | Minimum | Maximum |
| Department of Public Safety | | |
| 3.0 Criminalist FTE Positions (\$83,500/position) | \$ 251,000 | \$ 251,000 |
| Computer Technology and Supplies (\$20,000/position) | 60,000 | 60,000 |
| 2.0 Gas Chromatograph/ Flame Ionization Detection Instruments (\$50,000/instrument) | 100,000 | 100,000 |
| Subtotal | \$ 411,000 | \$ 411,000 |
| Department of Inspections and Appeals | | |
| Electronic Registration System Implementation Cost | \$ 0 | \$ 289,000 |
| Annual System Support and Maintenance | 0 | 71,500 |
| Existing System Enhancements | 50,000 | 0 |
| 0.5 Clerk FTE Position | 30,000 | 30,000 |
| 1.0 Senior Environmental Specialist FTE Position | 72,000 | 72,000 |
| 5.0 Environmental Specialist FTE Positions (\$64,200/position) | 321,000 | 321,000 |
| One-time Staffing Expenses (vehicle, technology, phone) | 80,000 | 80,000 |
| Subtotal | \$ 553,000 | \$ 863,500 |
| Department of Agriculture and Land Stewardship | | |
| Potential Loss of Federal & Grant Funding | \$ 800,000 | \$ 800,000 |
| Total | \$ 1,764,000 | \$ 2,074,500 |

Sources

Legislative Services Agency
Iowa Department of Agriculture and Land Stewardship
Department of Public Safety
Department of Inspections and Appeals
Office of Drug Control Policy
Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections

/s/ Holly M. Lyons

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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.

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