



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

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 *Cannabis sativa L.*, a certain type of cannabis, as well as the manufacture, sale, and transportation of hemp products if such products contain a concentration of no more than 0.3% delta-9 tetrahydrocannabinol (THC) on a dry weight basis.

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 to the United States Department of Agriculture (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 regulates hemp as a commodity and allows for the manufacture, sale, and consumption of consumable hemp products by humans 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 body. The Bill allows the importation of consumable hemp if the state or jurisdiction from which the product is being imported has a USDA-approved state or tribal plan pursuant to federal hemp law, and has testing requirements substantially similar to requirements for the State of Iowa. The Bill also provides for the registration and licensing of manufacturers and sellers of consumable hemp to be completed by the Department of Inspections and Appeals (DIA) including establishing a temporary permit, and provides for total delta-9 tetrahydrocannabinol acid (THCA) crop testing procedures and requirements for the Iowa Department of Agriculture and Land Stewardship (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 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 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 be tested at the DPS Division of Criminal Investigation (DCI) laboratory.
- The DPS assumes that both THC and THCA quantification will be required on a significant amount of crop testing, and that the DPS would need to hire additional staff and invest in specific testing technology to accommodate the provisions of HF 2581. In all cases involving any species of cannabis submitted to the DCI laboratory, the cannabis 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 would 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 the cost of such a system could range from approximately \$229,000 to \$349,000 for implementation, and from \$56,000 to \$87,000 for maintenance and upkeep. For estimating purposes, a midpoint of \$71,500 is used (**Table 2**).
- 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.

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.

Table 1 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 requires the DIA to establish registration, licensing, and inspection fees pursuant to the Department’s rulemaking authority. At this time, it is unknown how the Department would charge for registration, licensing, and inspection fees, and it is not possible to estimate any amount of collected fee revenue.

The identifiable fiscal impact for the first year of implementation of HF 2581 is estimated to range from approximately \$965,000 to \$1.3 million. For the second year of implementation, the identifiable fiscal impact is estimated to range from approximately \$885,000 to \$906,000.

Table 2 provides the estimated costs per affected State agency.

Table 2 — Estimated Costs, HF 2581

Agency	Year 1 Cost		Year 2 Cost	
	Minimum	Maximum	Minimum	Maximum
Department of Public Safety				
3.0 Criminalist Full-Time Equivalent (FTE) Positions (\$83,500/position)	\$ 251,000	\$ 251,000	\$ 251,000	\$ 251,000
Computer Technology and Supplies (\$20,000/position)	60,000	60,000	60,000	60,000
2.0 Gas Chromatograph/Flame Ionization Detection Instruments (\$50,000/instrument)	100,000	100,000	100,000	100,000
Subtotal	\$ 411,000	\$ 411,000	\$ 411,000	\$ 411,000
Department of Inspections and Appeals				
Electronic Registration System Implementation Cost	\$ 0	\$ 289,000	\$ 0	\$ 0
Annual System Support and Maintenance	0	71,500	0	71,500
Existing System Enhancements	50,000	0	50,000	0
0.5 Clerk FTE Position	30,000	30,000	30,000	30,000
1.0 Senior Environmental Specialist FTE Position	72,000	72,000	72,000	72,000
5.0 Environmental Specialist FTE Positions (\$64,200/position)	321,000	321,000	321,000	321,000
One-Time Staffing Expenses (vehicle, technology, phone)	80,000	80,000	0	0
Subtotal	\$ 553,000	\$ 863,500	\$ 473,000	\$ 494,500
	Minimum	Maximum	Minimum	Maximum
Total	\$ 964,000	\$ 1,274,500	\$ 884,000	\$ 905,500

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

June 3, 2020

Doc ID 1133306

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.