

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3454

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: FEBRUARY 25, 2021

SUMMARY

- Synopsis:** Concerns certain regulated substances, with particular emphasis on underage possession or consumption of various forms of cannabis, including legal consequences for such activities set forth in legislation passed by both Houses of Legislature.
- Type of Impact:** Annual expenditure increases for the State, municipalities and counties; revenue increases and decreases to the municipalities.
- Agencies Affected:** Department of Law and Public Safety; Cannabis Regulatory Commission; Department of Health; Judiciary; Department of Corrections; State Parole Board; Office of the Public Defender; County and Municipal law enforcement agencies.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
Local Cost Increase		Indeterminate	
Local Revenue Impact		Indeterminate	

- The Office of Legislative Services (OLS) anticipates that the bill will increase municipal revenues and expenditures annually. Civil penalties for marijuana related violations for persons who sell or provide cannabis items to underage persons are likely to increase municipal revenues. However, municipalities will also see a loss in revenue as the bill removes municipal authority to enact ordinances with civil penalties or fines concerning underage possession or consumption violations. The OLS does not have sufficient information to determine the direction or magnitude of the net fiscal impact.
- Annual expenditures will increase due to new enforcement responsibilities of the State, county and municipal law enforcement agencies. The bill establishes an elaborate written warning and parental notification system. The bill also mandates production of informational materials or law enforcement referrals for accessing community services for underage

persons. Though the costs involved are unknown at this time, it is likely to add to the fiscal burden of law enforcement agencies.

- The bill's establishment of the task force and reporting requirements may increase the workload of the Office of the Attorney General in the Department of Law and Public Safety, county and municipal law enforcement agencies. Depending on the resource allocation policies of affected agencies, the added responsibilities may or may not augment State and local government administrative expenditures.
- The OLS finds that this bill will result in an indeterminate annual cost increase for the State and local governments to store data from body worn camera (BWCs). Depending on the specific number of body worn cameras required to outfit all uniformed patrol officers making a call for an underage marijuana related violation who are not currently equipped, the costs may increase further.
- The OLS projects that the bill may increase the annual State expenditures of the Police Training Commission (PTC) by an indeterminate amount. Any increase would likely be marginal and result from the development and periodic updating of a course curriculum and examination, if applicable.

BILL DESCRIPTION

This bill addresses penalties for underage possession or consumption of alcoholic beverages; modifies penalties for persons who wrongfully supply legalized cannabis items to underage persons; establishes funding for programs and services to help deter and prevent underage possession and consumption of cannabis items, or illegal marijuana or hashish; applies the existing crime of official deprivation of civil rights to unlawful law enforcement interactions with underage persons for alcohol, marijuana, and cannabis item possession or consumption; and provides revised training for law enforcement officers concerning interactions with underage persons regarding such activities.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill will result in a revenue increase for the municipalities and an expenditure increase to the State, municipal and county law enforcement agencies.

State Impact:

The OLS estimates that this bill will result in an indeterminate expenditure increase to the State due to additional enforcement efforts. The bill establishes a written warning system, with parental notification in some instances, and the production of informational materials or law enforcement referrals for accessing community services provided by public or private

organizations for marijuana and other violations by all persons under 21 years of age. Furthermore, law enforcement officers will need to include a sworn statement with a description of the relevant facts and circumstances to support an officer's determination that a person committed a violation adding to the current workload.

The bill mandates a permanent deletion or destruction of records on underage marijuana violations to include as an alternative to the two-year period that such records be destroyed or deleted not later than the 21st birthday of a person, or not later than the last day of the month in which that birthday falls, if either date is sooner than two years. It is unclear as to how this workload will be distributed between the various law enforcement agencies but is likely to result in additional administrative workload.

A law enforcement officer would be guilty of a crime of official deprivation of civil rights if that officer knowingly violates provisions set forth in the bill addressing law enforcement interactions with underage persons. The crime would be graded the same as other criminal deprivations of civil rights: it would be crime of the third degree, punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both, but could be upgraded to a crime of the second degree if bodily injury resulted from the deprivation of rights (five to 10 years' imprisonment; fine of up to \$150,000, or both), or even a crime of the first degree if the violation involved murder, manslaughter, kidnapping, or aggravated sexual assault. The Judiciary will see an increased caseload with new lawsuits brought to court and more cases being adjudicated in courts for these crimes. This could result in increased expense for the Department of Corrections (DOC). According to data provided by the DOC, the average annual cost of housing an inmate in a State prison for FY 2019 totaled \$50,191, whereas the marginal costs per day were approximately \$8.60. With regard to revenue gains from fines, the State's ability to collect criminal fines and penalties has historically been limited.

The bill will result in an expenditure increase for the Office of the Attorney General due to additional resources to conduct periodic reviews of recordings from BWCs, with the resulting reports on such examinations to be reviewed by the task force on underage possession and consumption created by the bill. This would include the cost of equipment acquisition, an annual licensing fee, maintenance, and storage. Even after acquisition, ongoing maintenance and storage costs would be incurred.

The Department of Law and Public Safety may incur an increase in expenditures under the bill for setting up a 26-member taskforce. These expenditures could include administrative expenses for staff support, the cost of any meeting space rentals, and reimbursable expenses incurred by the members of the taskforce.

The Cannabis Regulatory Commission (CRC), along with the Commissioner of Health, would be authorized to coordinate efforts to enforce the bill's provisions for punishing violators, as well as delegate enforcement authority to local health agencies, just as the Commissioner of Health may do so currently with respect to enforcement efforts concerning tobacco products. Per the bill, any civil penalty would be recovered by the local health agency for the jurisdiction in which a violation occurred, and the money collected would be paid into the treasury of the corresponding municipality for the municipality's own general uses.

The PTC in the Department of Law and Public Safety would adopt a training course regarding law enforcement interactions and enforcement of statutes with persons under the lawful age to purchase alcoholic beverages or cannabis items. The OLS does not have sufficient information to estimate the costs involved.

Municipal Impact:

This bill may result in an increase in revenues for municipalities. This bill establishes civil penalties for persons who sell or otherwise provide cannabis items to underage persons: a civil

penalty of not less than \$250 for a first violation; a civil penalty of not less than \$500 for a second violation; and it would be a petty disorderly persons offense for a third and each subsequent violation (up to 30 days imprisonment; up to \$500 fine, or both). Further, a person 21 years of age or older who purchased a cannabis item as a “straw man” on behalf of a person who is under 21 years of age could be adjudged a petty disorderly person. The “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” would also establish the same liability for licensed businesses, and their agents and employees, who commit such acts. The OLS does not have sufficient information to estimate the number of violations likely to occur or the revenue impact from these penalties.

Further, municipalities will also see a loss in revenue as the bill removes municipal authority to enact ordinances with civil penalties or fines concerning underage possession or consumption violations on private property, as well as any ordinance with a civil penalty for the non-smoking consumption of a cannabis item in public by a person who is of legal age to purchase and consume that item. The OLS cannot determine the direction and magnitude of the bill’s fiscal net impact on municipalities.

The bill establishes the “Underage Deterrence and Prevention Account,” which will receive 15 percent of the monies from retail sales of cannabis items to be used by the CRC to fund private for-profit and non-profit organizations, and county and municipal programs and services to support youthful community activities to prevent persons under 18 years of age from engaging in activities associated with underage use of cannabis items, or illegal marijuana or hashish. However, the OLS cannot determine if those funds will suffice for these purposes.

County Impact:

The OLS estimates that this bill will result in an indeterminate expenditure increase to the counties due to additional enforcement efforts.

Section: *Judiciary*

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).