

# Individual State Agency Fiscal Note

|                             |                                  |  |
|-----------------------------|----------------------------------|--|
| <b>Bill Number:</b> 5547 SB | <b>Title:</b> Marijuana products | <b>Agency:</b> 195-Liquor and Cannabis Board |
|-----------------------------|----------------------------------|--|

## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

|  | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|--|---------|---------|---------|---------|---------|
| FTE Staff Years                            | 0.0     | 2.0     | 1.0     | 2.0     | 2.0     |
| <b>Account</b>                             |         |         |         |         |         |
| Dedicated Marijuana Account-State<br>315-1 | 0       | 278,370 | 278,370 | 491,740 | 491,740 |
| <b>Total \$</b>                            | 0       | 278,370 | 278,370 | 491,740 | 491,740 |

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact . Factors impacting the precision of these estimates , and alternate ranges (if appropriate) , are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

|  |                       |                  |
|--|-----------------------|------------------|
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| Agency Preparation: Colin O Neill              | Phone: (360) 522-2281 | Date: 01/10/2022 |
| Agency Approval: Aaron Hanson                  | Phone: 360-664-1701   | Date: 01/10/2022 |
| OFM Review: Cheri Keller                       | Phone: (360) 584-2207 | Date: 01/10/2022 |

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This bill authorizes the Liquor and Cannabis Board (Board) to regulate all cannabinoids that may be impairing, regardless of origin, and to direct the Board to adopt rules related to cannabinoid products and cannabis isolates, except those authorized as a drug by the federal Food and Drug Administration.

Section 2c: creates a definition of "artificial cannabinoid", which (in brief summary) is a solely chemically created substance that does not originate from the cannabis plant but is structurally the same or substantially similar. but is not listed as a controlled substance by the Washington state controlled substances act. These do not include :

- 1) naturally occurring chemical substances that is separated from the cannabis plant
- 2) Cannabinoids produced by decarboxylation from a naturally occurring cannabinoid acid without use of a chemical catalyst
- 3) Any other chemical substance resembling in any manner a compound found in the cannabis plant that is identified by the Washington State Liquor and Cannabis Board ("Board") in consultation with the Department of Health.

Section 2h: redefines CBD product to narrow it to only cannabidiol not exceeding 0.3% THC, and not more than 0.5mg per serving or 2mg total in the package product of a cannabinoid.

Section 2ff: modifies the definition of "marijuana."

Section 2 also creates or modifies definitions for cannabinoid, catalyst, distillate, extract, extraction, isolate, hemp (among other changes).

Section 3(1): Products containing or consisting of cannabinoids produced and processed for any type of consumption into a human body, whether marketed as such or not, exceeding 0.3 percent THC on a dry weight basis, that contains more than 0.5 milligrams per serving or 2 milligrams total in the packaged product of a cannabinoid which may be impairing, may only be sold by a marijuana producer, marijuana processor, or marijuana retailer licensed by the Board unless authorized as a drug by the federal food and drug administration.

Section 3(2): Sale of products identified in subsection (1) of this section is prohibited unless conducted by a business holding a valid marijuana producer, marijuana processor or marijuana retailer license issued by the Board.

Section 3(8): Manufacturing and sales of artificial cannabinoids is prohibited.

Section 5(1): Licensed cannabis producers and processors may use CBD, or other non-impairing cannabinoids, or non-impairing cannabis plant isolate for the purpose of enhancing the non-impairing cannabinoid concentration of any product

authorized for production, processing, and sale under this chapter.

Section 5(4): Licensed marijuana producers and licensed marijuana processors may not use any artificial cannabinoids, as defined in this chapter, as an additive to any product authorized for production, processing, and sale under this chapter.

Section 5(5): Licensed marijuana producers and licensed marijuana processors must disclose on packaging and labeling all synthetically derived cannabinoids contained in products and may not make any statements or claims indicating those cannabinoids are a natural substance.

Section 5(6): The Board must revise rules as appropriate to conform to the terminology described in this act.

Section 6: The Board may adopt rules regarding the production, processing, transportation, delivery, sale, and purchase of naturally, or synthetically derived, cannabinoids, with the exception of hemp as defined in RCW 15.140.020, and products authorized as a drug by the federal food and drug administration.

Section 8: This act takes effect July 1, 2022.

## II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency , identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources . Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates . Distinguish between one time and ongoing functions .

No cash receipt impact.

## II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation ), identifying by section number the provisions of the legislation that result in the expenditures (or savings ). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates . Distinguish between one time and ongoing functions .

### DIRECTOR'S OFFICE (BOARD DIVISION)

The agency anticipates significant additional ongoing rulemaking as a result of this legislation, requiring 1 additional Regulatory Analyst 3 (RA3).

1.0 FTE Regulatory Analyst 3 - \$126,140/yr (\$123,370 salary/benefits, \$2,770 in associated costs). Onetime costs in FY23 of \$6,105 for equipment purchases.

### ENFORCEMENT DIVISION:

The LCB keeps detailed statistics on all of its enforcement activities and tracks this activity using a unit of measure called a Field Increment (FI). All direct enforcement activities such as premise checks, inspections and investigations are tracked to determine how many FI's are needed to accomplish each activity. Each FI is equivalent to 1 /10th of an hour (6 minutes). For example, if a tavern premise check takes 2 FI's and two officers, it is anticipated that one check will consume 4 FI's. Using historical data to factor out indirect activities such as driving time, training, office time and leave, i has been determined that officers are available for an average of 4,220 FI's each year.

Based on the attached analysis "5547 SB Expanding Regulatory Authority over Cannabinoids - Enforcement Field Increment Calculator.pdf", the agency will need 1 additional LCB Enforcement Officer 2 (LEO2).

1.0 FTE LCB Enforcement Officer 2 - \$119,330/yr (\$103,470 salary/benefits, \$15,860 in associated costs). Onetime costs in FY23 of \$26,395 for equipment purchases.

There will also be costs for testing product samples, estimated at \$400 /year.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

| Account         | Account Title               | Type  | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|-----------------|-----------------------------|-------|---------|---------|---------|---------|---------|
| 315-1           | Dedicated Marijuana Account | State | 0       | 278,370 | 278,370 | 491,740 | 491,740 |
| <b>Total \$</b> |                             |       | 0       | 278,370 | 278,370 | 491,740 | 491,740 |

**III. B - Expenditures by Object Or Purpose**

|                                      | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|--------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years                      |         | 2.0     | 1.0     | 2.0     | 2.0     |
| A-Salaries and Wages                 |         | 167,736 | 167,736 | 335,472 | 335,472 |
| B-Employee Benefits                  |         | 59,104  | 59,104  | 118,208 | 118,208 |
| C-Professional Service Contracts     |         |         |         |         |         |
| E-Goods and Other Services           |         | 20,410  | 20,410  | 14,780  | 14,780  |
| G-Travel                             |         | 15,160  | 15,160  | 22,320  | 22,320  |
| J-Capital Outlays                    |         | 15,960  | 15,960  | 960     | 960     |
| M-Inter Agency/Fund Transfers        |         |         |         |         |         |
| N-Grants, Benefits & Client Services |         |         |         |         |         |
| P-Debt Service                       |         |         |         |         |         |
| S-Interagency Reimbursements         |         |         |         |         |         |
| T-Intra-Agency Reimbursements        |         |         |         |         |         |
| 9-                                   |         |         |         |         |         |
| <b>Total \$</b>                      | 0       | 278,370 | 278,370 | 491,740 | 491,740 |

**III. C - Operating FTE Detail:** List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part I and Part IIIA

| Job Classification        | Salary | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---------------------------|--------|---------|---------|---------|---------|---------|
| LCB Enforcement Officer 2 | 74,604 |         | 1.0     | 0.5     | 1.0     | 1.0     |
| Regulatory Analyst 3      | 93,132 |         | 1.0     | 0.5     | 1.0     | 1.0     |
| <b>Total FTEs</b>         |        |         | 2.0     | 1.0     | 2.0     | 2.0     |

**III. D - Expenditures By Program (optional)**

| Program                    | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|----------------------------|---------|---------|---------|---------|---------|
| Board Division (010)       |         | 132,245 | 132,245 | 252,280 | 252,280 |
| Enforcement Division (060) |         | 146,125 | 146,125 | 239,460 | 239,460 |
| <b>Total \$</b>            |         | 278,370 | 278,370 | 491,740 | 491,740 |

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

**IV. D - Capital FTE Detail:** List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB

NONE

**Part V: New Rule Making Required**

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules .

Section 5(6): The Board must revise rules as appropriate to conform to the terminology described in this act.

Section 6: The Board may adopt rules regarding the production, processing, transportation, delivery, sale, and purchase of

naturally, or synthetically derived, cannabinoids, with the exception of hemp as defined in RCW 15.140.020, and products authorized as a drug by the federal food and drug administration.

| Enforcement Field Increment (FI) Calculator                                     |                  |             |                 |          |
|---|------------------|-------------|-----------------|----------|
| 5547 SB "Marijuana Products" (Expanding Regulatory Authority over Cannabinoids) |                  |             |                 |          |
| Event   | Number of events | Time Factor | Staffing Factor | FI Total |
| Cannabis Premises Checks (Retail/Non-Retail)                                    | 96               | 10          | 1.00            | 958      |
| Cannabis Complaint Investigations (Non-Retail)                                  | 43               | 25          | 1.30            | 1,397    |
| Licensee Support and Education (Non-Retail)                                     | 287              | 7           | 1.00            | 2,006    |
| Licensee Support and Education (Retail)   | 48               | 7           | 1.00            | 338      |
| Complex Investigations  | 4                | 40          | 1.30            | 208      |
| Sampling  | 2                | 5           | 1.30            | 13       |

|                                       |              |
|---------------------------------------|--------------|
| <b>Total FI's</b>                     | <b>4,920</b> |
| <b>Total Field Increments per FTE</b> | <b>4,220</b> |
| <b>FTE's required</b>                 | <b>1.17</b>  |
| <b>Round</b>                          | <b>1.00</b>  |

| Cost Factors                                   | Frequency      |
|--|----------------|
| Cannabis Retailers                             | 483            |
| Cannabis Producer/Processors                   | 1,433          |
| Cannabis Premises Checks (Retail/Non-Retail)   | 5%             |
| Cannabis Complaint Investigations (Non-Retail) | 3%             |
| Licensee Support and Education (Non-Retail)    | 20%            |
| Licensee Support and Education (Retail)        | 10%            |
| Complex Investigations (% of complaints)       | 10%            |
| Sampling (annually)                            | 2              |
| # of lab tests (annually)                      | 2              |
| Cost per lab test (product)                    | \$200 per test |