

Multiple Agency Fiscal Note Summary

Bill Number: 5367 S SB	Title: Products containing THC
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Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Liquor and Cannabis Board	1.5	0	0	440,396	1.2	0	0	318,564	1.2	0	0	318,564
Washington State Patrol	.0	384,500	384,500	384,500	.0	134,000	134,000	134,000	.0	134,000	134,000	134,000
Department of Health	Fiscal note not available											
Department of Agriculture	Fiscal note not available											
Total \$	1.5	384,500	384,500	824,896	1.2	134,000	134,000	452,564	1.2	134,000	134,000	452,564

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Department of Health	Fiscal note not available								
Department of Agriculture	Fiscal note not available								
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

NONE

This preliminary package is still missing two agencies.

Prepared by: Amy Hatfield, OFM	Phone: (360) 280-7584	Date Published: Preliminary 2/16/2023
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Individual State Agency Fiscal Note

Bill Number: 5367 S SB	Title: Products containing THC	Agency: 195-Liquor and Cannabis Board
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.7	1.2	1.5	1.2	1.2
Account					
Dedicated Cannabis Account-State 315-1	281,114	159,282	440,396	318,564	318,564
Total \$	281,114	159,282	440,396	318,564	318,564

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.

Legislative Contact: Matthew Shepard-Koningsor	Phone: 360-786-7627	Date: 02/13/2023
Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 02/15/2023
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 02/15/2023
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 02/15/2023

Part II: Narrative Explanation

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

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 1(8): adds a definition for “Hemp consumable” – which means a product that is not a cannabis product, as defined in RCW 69.50.101, and is intended to be consumed or absorbed inside the body by any means, including inhalation, ingestion or insertion, that is sold or provided to another person with a THC concentration of not more than:

- (a) 1 mg THC per unit, as defined in RCW 69.50.101; and
- (b) 3 mg THC in a package of product, as defined in RCW 69.50.101

Section 1(11): strikes reference to Delta-9 in the definition of “postharvest test”.

Section 2(d): The definition of “cannabis” is rewritten for clarity.

Section 2(h): The definition of “cannabis products” is amended to clarify that cannabis products include any product intended to be consumed or absorbed inside the body, with a THC concentration greater than 1mg THC per unit or 3mg THC in a package of product. "Cannabis products" also includes any product containing only THC content. The term does not include cannabis health and beauty aids or hemp consumables.

Section 2(cc): Amends the definition of "isomer" to specify that, when referring to the definitions of "THC" and "THC concentration," the term includes any optical, positional, and geometric isomers.

Section 2(ii): The definition of “package” is added, meaning a container that has a single unit or group of units as defined in this section.

Section 2(uu) Defines "tetrahydrocannabinol" or "THC" to include any isomers, esters, ethers, alkyl homologues, carboxylic acids, hydrogenations, and metabolites of such substances, and excludes Cannabigerol, Cannabidiol, and Cannabichromene from the definition.

Section 2(vv): The definition of THC concentration is modified to eliminate reference to Delta-9 and add “including any hydrogenated or structural isomer forms of THC”

Section 2(xx): The definition of “unit” is added, meaning “an individual consumable item within a package of one or more consumable items in solid, liquid, gas, or any form intended for human consumption.”

Section 3(2): licensed cannabis producers and processors may use a CBD product, provided that the CBD product is not cannabis, or a cannabis product, or is not a hemp consumable. Reference to the THC level of 0.3% or less is stricken.

Section 4: packaging requirements are modified to include the amount of any synthetically derived CBD in the product sold or provided to the ultimate user.

Section 5: states that “Except as otherwise provided in this chapter, no person may manufacture, sell or distribute cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products, or any cannabis products without a valid license issued by the board or pharmacy quality assurance commission. Any person performing any act requiring a license under this title, without having in force an appropriate and valid license issued to the person, is in violation of this chapter.”

NEW Section 6: Specifies that all products containing hemp consumables must conform to applicable federal and state labeling laws and be labeled to disclose that hemp consumables are included.

NEW Section 7: Provides that nothing in the act shall be construed to require any agency to purchase a liquid

chromatography-mass spectrometry instrument.

CHANGES MADE BY THE SUBSTITUTE:

Section 2:

- (h)(2): Amends the definition of "cannabis products" to also include any product containing only THC content.
- (cc): Amends the definition of "isomer" to specify that, when referring to the definitions of "THC" and "THC concentration," the term includes any optical, positional, and geometric isomers.
- (uu) Defines "tetrahydrocannabinol" or "THC" to include any isomers, esters, ethers, alkyl homologues, carboxylic acids, hydrogenations, and metabolites of such substances, and excludes Cannabigerol, Cannabidiol, and Cannabichromene from the definition.

NEW Section 6: Specifies that all products containing hemp consumables must conform to applicable federal and state labeling laws and be labeled to disclose that hemp consumables are included.

NEW Section 7: Provides that nothing in the act shall be construed to require any agency to purchase a liquid chromatography-mass spectrometry instrument.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

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, it has been determined that officers are available for an average of 4,220 FI's each year.

In FY24 there is a projected need for 1.5 FTE LCB Enforcement Officer 2 (LEO2). This is primarily driven by educational efforts needed to explain to the industry the legal changes. The secondary driver is complaints which are part of any legal change. In FY25 and future years the FTE requirement is reduced to 1.2 FTE as education efforts and complaints are projected to decline as the industry matures.

Please see the attached "Concerning THC regulation - Enforcement Field Increment Calculator.pdf" for workload calculations.

FY24 - 1.5 FTE LCB Enforcement Officer 2 - \$184,101/yr (\$160,311 salary/benefits, \$23,790 in associated costs). Onetime costs of \$52,790 for equipment purchases.

FY25+ 1.2 FTE LCB Enforcement Officer 2 - \$147,282/yr (\$128,250 salary/benefits, \$19,032 in associated costs).

As part of a complaint investigation and officer observations the division will need to conduct THC tests to determine if a product meets the definition of cannabis or a hemp consumable. The cost of these tests is \$200 per test. In FY24, the division is expected to test 66 samples (66 x \$200 = \$13,200). In FY25 there is a predicted 10% decrease in sample demand and will fall to 60 test samples per year (60 x \$200 = \$12,000).

FY24: \$13,200
 FY25+: \$12,000/yr

INFORMATION TECHNOLOGY DIVISION

There will be one-time cost in staff hours to update the agency's internal systems in FY24.

0.2 FTE IT App Development - Senior/Specialist - \$31,023 (\$30,809 salary/benefits, \$214 in associated costs).

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
315-1	Dedicated Cannabis Account	State	281,114	159,282	440,396	318,564	318,564
Total \$			281,114	159,282	440,396	318,564	318,564

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.7	1.2	1.5	1.2	1.2
A-Salaries and Wages	139,286	92,434	231,720	184,868	184,868
B-Employee Benefits	51,834	35,816	87,650	71,632	71,632
C-Professional Service Contracts					
E-Goods and Other Services	45,784	17,232	63,016	34,464	34,464
G-Travel	24,740	13,392	38,132	26,784	26,784
J-Capital Outlays	19,470	408	19,878	816	816
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	281,114	159,282	440,396	318,564	318,564

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 2024	FY 2025	2023-25	2025-27	2027-29
IT App Development - Senior/Specialist	118,716	0.2		0.1		
LCB Enforcement Officer 2	77,028	1.5	1.2	1.4	1.2	1.2
Total FTEs		1.7	1.2	1.5	1.2	1.2

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Enforcement Division (060)	250,091	159,282	409,373	318,564	318,564
Information Technology Division (070)	31,023		31,023		
Total \$	281,114	159,282	440,396	318,564	318,564

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Enforcement Field Increment (FI) Calculator

5367 SSB: Concerning the regulation of products containing THC. (LCB Agency Request Legislation)

Year 1

Event	# of events	Time Factor	Staffing Factor	FI Total	Officer	Consultant
THC Contact	99	10	1	985	985	
License Support and Education	158	10	1.3	2,049	2,049	
Complaint Investigations Cannabis	66	20	1.3	1,716	1,716	
Premises Checks	118	9	1	1,383	1,383	

Total FI's 6,133 6,133 0

Total Field Increments per FTE 4,220 4,220 4,220

FTE's required 1.45 1.45 0.00

Round 1.50 1.50 0.00

Licenses

Factors	Values
Licenses	3940
THC Contact	2.5%
License Support and Education	4%
Complaint Investigations Cannabis	66
Liquor Premises Checks	3%
Lab cost	\$13,200

Year 2+

Event	# of events	Time Factor	Staffing Factor	FI Total	Officer	Consultant
THC Contact	99	10	1	985	985	
License Support and Education	118	10	1.3	1,537	1,537	
Complaint Investigations Cannabis	60	20	1.3	1,560	1,560	
Liquor Premises Checks	118	9	1	1,064	1,064	

Total FI's 5,145 5,145 0

Total Field Increments per FTE 4,220 4,220 4,220

FTE's required 1.22 1.22 0.00

Round 1.20 1.20 0.00

Licenses

Factors	Values
Licenses	3940
THC Contact	2.5%
License Support and Education	3%
Complaint Investigations Cannabis	60
Premises Checks	3%
Lab cost	\$12,000

Individual State Agency Fiscal Note

Bill Number: 5367 S SB	Title: Products containing THC	Agency: 225-Washington State Patrol
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
Account					
General Fund-State 001-1	317,500	67,000	384,500	134,000	134,000
Total \$	317,500	67,000	384,500	134,000	134,000

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.

Legislative Contact: Matthew Shepard-Koningsor	Phone: 360-786-7627	Date: 02/13/2023
Agency Preparation: Yvonne Ellison	Phone: 360-596-4042	Date: 02/14/2023
Agency Approval: Mario Buono	Phone: (360) 596-4046	Date: 02/14/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 02/15/2023

Part II: Narrative Explanation

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

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

The proposed legislation does not directly change any duties or responsibilities of the Washington State Patrol (WSP), however, the proposed legislation makes changes to definitions that apply throughout Chapter 69.50 RCW. This is expected to result in changes to evidentiary standards that will impact the WSP.

The substitute version adds a clause in New Section 7 that changes our assumptions regarding the potential fiscal impact to the WSP.

Section 2(h) expands the definition of Cannabis Products to include any product intended to be consumed or absorbed inside the body with a Tetrahydrocannabinol (THC) concentration of more than one milligram THC per unit, and three milligrams THC in a package of product.

Section 2(uu) removes delta-9 and inserts “including any hydrogenated or structural isomer forms of Tetrahydrocannabinol (THC)” to the definition of THC concentration.

New Section 7 states that nothing in the act shall be construed to require any agency to purchase a liquid chromatography-mass spectrometry instrument.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

NONE

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

We assume that our Crime Laboratory Division (CLD) will need to provide evidence testing that meets the new definitions of the proposed legislation to the extent scientifically possible. In order to accomplish this, the CLD would need to acquire new Liquid Chromatography-Mass Spectrometry (LC/MS) instruments capable of conducting the more detailed analysis required. We assume that the intent of New Section 7 of the proposed legislation is that we not do so. This will mean that we will be unable to fully meet the new evidentiary standards created.

In order to come as close as possible to the new evidentiary standards, it will be necessary to develop and validate new testing protocols and then train staff on these protocols. We expect the development of these new protocols will require two scientists 22 weeks to complete. This will be done by current staff, but as they will not be performing normal testing during this time we expect it will result in an increased need for overtime by other staff of approximately 2,320 hours in the first year. We also expect the new testing protocols will result in an increase of approximately 30 percent to the current per case processing time. Based on this, we expect to have an ongoing need of approximately 386 hours of overtime for the increase in testing time. Other expected costs include an increase in the cost of the consumable supplies needed to conduct the testing.

Our estimated costs are shown below.

First Year costs:

\$160,000 – Overtime Salaries
 \$47,000 – Overtime Benefits
 \$30,000 – Testing Consumables (increased for development and validation of testing protocols)
 \$3,500 – Travel (for training)
 \$77,000 – Agency Indirect Costs

Ongoing annual costs:

\$27,000 – Overtime Salaries
 \$8,000 – Overtime Benefits
 \$16,000 – Testing Consumables
 \$16,000 – Agency Indirect Costs

\$317,500 – Total First Year Costs
 \$67,000 – Total Ongoing Costs

We based estimated overtime salary expenditures on current levels for a Forensic Scientist 3 per published salary schedules. We computed estimated benefits expenditures based on federal or state mandated rates plus state provided amounts for health insurance and workers’ compensation insurance. We assume that any increases in these rates or amounts will be covered by legislation establishing the increase.

We base our indirect cost rate on our negotiated federal rate of 31.88%. We calculate this rate on all categories of expenditures except capitalized equipment, and contracted services over \$25,000. The rate represents the agency's administrative support costs associated with this proposed legislation. Support costs include, but are not limited to, items such as computer and telecommunications support; payroll processing; vendor payments; contract administration; ordering, accounting for and distribution of supplies; and human resource services.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	317,500	67,000	384,500	134,000	134,000
Total \$			317,500	67,000	384,500	134,000	134,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages	160,000	27,000	187,000	54,000	54,000
B-Employee Benefits	47,000	8,000	55,000	16,000	16,000
C-Professional Service Contracts					
E-Goods and Other Services	30,000	16,000	46,000	32,000	32,000
G-Travel	3,500		3,500		
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Agency Indirect Costs	77,000	16,000	93,000	32,000	32,000
Total \$	317,500	67,000	384,500	134,000	134,000

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.