OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 198
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 198's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Fischer and T. Mathews

Local Impact Statement Procedure Required: No

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Highlights

- The bill creates a statutory framework for regulating hemp-derived consumable products (HDCPs) under the Department of Agriculture, which will incur new costs as a result. Although the Department currently oversees hemp cultivation and processing under the Cultivation and Processing Program, it will need to hire additional employees to regulate HDCPs.
- The bill creates three new license types applicable to HDCPs: (1) a manufacturer's license with an initial and annual renewal fee of $250, (2) a distributor's license with an initial and annual renewal fee of $250, and (3) a retailer's fee of $100 per location but not to exceed $2,500, along with an annual renewal fee of $250 for all locations. These fees would be deposited into the existing Hemp Program Fund (Fund 5WJ0).
- The bill exempts HDCP distributors and retailers from these fees if they also hold a tobacco/vapor product distributor or cigarette retailer license issued by the Department of Taxation. This would most likely limit the amount of licensing revenue that the Department is able to collect for regulating HDCPs.

Detailed Analysis

Overview

The bill creates a statutory framework for regulating the manufacture, distribution, and sale of hemp-derived consumable products (HDCPs) under the Department of Agriculture (AGR). These new responsibilities would be folded into the Department's existing Hemp Cultivation and Processing Program but would expand its scope significantly. Under this new regulatory framework, the bill outlines HDCP registration, testing, labeling, and restrictions on HDCP sales. The new restrictions establish rules on how, to whom, and in what manner HDCP sales can be carried out. The bill also establishes requirements that apply to franchise agreements between manufacturers and distributors. It also prohibits manufacturers, distributors, and retailers from having any financial interest or investment in each other. The potential fiscal effects of the bill are summarized below.

Regulatory costs

According to estimates that AGR shared with LBO, initially the Department will need to create at least 14 Food Safety Specialist 1 positions to oversee the additional licensees under the bill. The wage costs for these new positions would be approximately $780,000 annually ($26.72/hr. x 2,080 x 14). This does not include the cost of fringe benefits. For FY 2025, the state's share of providing single coverage under the Ohio Med PPO plan is just under $8,600 annually. The state's share of retirement is 14% of the employee's salary. Beyond payroll expenses for additional staff, there will also be additional costs for equipment, supplies, and additional office space.

Licensing fees

To pay for the additional regulatory costs, the bill creates a series of fees applying to those involved in the manufacturing, distribution, and sales of HDCPs. Manufacturers and distributors must file a $250 application with AGR, which is renewed for $250 annually. Sellers must pay an initial license fee of $100 per retail location, not to exceed $2,500 overall, along with a $250 annual renewal fee. However, the bill exempts both distributors and retailers from these license fees if they hold tobacco or vapor product distributor or cigarette retailer licenses issued by the Department of Taxation. Given the exemptions in the bill, a significant number of the potential HDCP licensees will be exempt from these fees, as they are already selling cigarettes, tobacco, and vapor products. Any fees collected will be paid into the Hemp Program Fund (Fund 5WJ0).

Additional costs

The bill requires a manufacturer to test the contents of each HDCP at qualified laboratories before these products can be sold to a licensed HDCP distributor. As part of this process, AGR must keep a registry of testing laboratories that are equipped to do the required testing. The bill also requires AGR to periodically analyze hemp products sold in the state to ensure that the products comply with state law surrounding packaging, potency, and acceptable levels of foreign materials in HDCPs. Consequently, AGR will incur costs associated with staffing, travel, and materials in determining what laboratories will be approved for use by hemp manufacturers. AGR anticipates an estimated $238,000 in yearly costs for these activities. AGR will incur minimal increased costs associated with hosting a registry of testing laboratories that are qualified to test HDCPs. The bill requires, on the first of each March, AGR to share a report of violations relating to hemp with the General Assembly. AGR will incur costs associated with the production and publication of the report.

Additionally, under the bill AGR will be responsible for finding and enforcing violations related but not limited to packaging, allowing purchases from individuals under 21 years of age, sales location violations, and sampling violations. This will result in an increased cost for AGR.

Prohibitions and penalties

The bill contains a list of 12 various prohibitions which are described in detail in the LSC bill analysis. Generally, the prohibitions deal with selling or distributing HDCPs to someone under the age of 21, possession by someone under the age of 21, marketing HDCP products in ways that the bill proscribes, and delivering or shipping hemp-derived beverages directly to a consumer in Ohio. Under the bill, knowingly violating any of these specific prohibitions is a first degree misdemeanor, and each day of violation is a separate offense. Overall, this could lead to some increased costs for courts, which may be offset by fine revenue. In addition to any other penalty levied, the courts may impose a fine of no more than $250 to be paid into the Hemp Program Fund (Fund 5WJ0). Finally, the bill outlines conditions governing franchise agreements between manufacturers and distributors. In cases where a party violates those agreements, the injured party may seek restitution in a court. This may increase costs for the court, due to increased case load.

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