

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: HB211

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Hodges

3. Committee: General Laws

4. Title: Retail sale of cannabis products by certain pharmaceutical processors; sunset.

5. Summary: Allows certain pharmaceutical processors to, under the oversight of the Board of Pharmacy, sell cannabis products at retail to unregistered persons who are 21 years of age or older without the need for a written certification. The bill provides that such sales will be subject to existing Board of Pharmacy regulations and other requirements set forth in the bill. The bill requires pharmaceutical processors engaging in such sales to collect a 21 percent excise tax, to be deposited into the general fund, and pay a \$1 million fee, to be deposited into the account of the Virginia Cannabis Control Authority and used to assist independent cannabis retailers located in designated rural and urban opportunity zones. The bill also requires such pharmaceutical processors to submit and comply with a plan describing how the pharmaceutical processor will, in its health service area, educate consumers about responsible consumption of cannabis products and incubate independent cannabis retailers or support and educate persons that wish to participate in the cannabis market. The bill directs the Board of Directors of the Virginia Cannabis Control Authority to promulgate regulations governing sales, cultivation, extraction, processing, manufacturing, wholesaling, and other related activities conducted pursuant to the provisions of the bill and provides that, upon the effective date of such regulations, oversight of such activities shall transfer from the Board of Pharmacy to the Board of Directors of the Virginia Cannabis Control Authority. The bill expires when pharmaceutical processors engaging in the sale of cannabis products pursuant to the provisions of the bill are authorized by the Virginia Cannabis Control Authority to apply for and be granted licenses to cultivate, manufacture, wholesale, and sell at retail to consumers 21 years of age or older retail marijuana and retail marijuana products.

6. Budget Amendment Necessary: See item 8.

7. Fiscal Impact Estimates: Preliminary.

8. Fiscal Implications: The provisions of this legislation would have a fiscal impact on the Department of Health Professions and the Department of Taxation. Any fiscal impact on the Virginia Cannabis Control Authority is indeterminate.

Department of Health Professions

The provisions of the bill would have an increase in workload on DHP for additional enforcement and inspections of processors and on the Board of Pharmacy to process additional product registrants. Specifically, there would be additional inspection and enforcement costs to evaluate the retail portion of the regulatory implementation and investigate any related complaints. Additionally there would be increased staff time to process and analyze the quarterly reports that are to be submitted and increased staff time to review and approve retail products. DHP asserts that this would require two additional positions, one licensing specialist (\$73,500 annually) and one pharmacy investigator (\$118,600 annually). The bill provides that the Board of Pharmacy may assess and collect fees from each pharmaceutical processor that sells cannabis products pursuant to this act in an amount sufficient to recover the costs associated with the implementation of the provisions of this act.

Virginia Cannabis Control Authority

This bill has a fiscal impact on the Virginia Cannabis Control Authority (CCA). The bill proposes a one-time \$1 million fee to the Department of Taxation to engage in retail sales (sales pursuant to this act) and stipulates that this fee be provided to the CCA *“to assist independent cannabis retailers located in rural and urban opportunity zones”*. The CCA has stated it is clear what this requirement would entail operationally.

The bill requires pharmaceutical processors engaging in sales pursuant to this act to *“submit to the Board of Directors of the Virginia Cannabis Control Authority and, upon approval by the Board of Directors of the Virginia Cannabis Control Authority, comply with a plan describing how the pharmaceutical processor will, in its health service area, (i) educate consumers about responsible consumption of cannabis products and (ii) incubate five or fewer independent cannabis retailers for a period of six months or support and educate persons that wish to participate in the cannabis market”*. This will have an operational impact on the CCA to review and coordinate with the CCA Board to review these plans, however, the extent of this impact is unknown at this point due to little knowledge on the number of pharmaceutical processors that would engage in sales pursuant to this act.

Department of Taxation

If the number of pharmaceutical processors that elect to purchase the license provided by this bill would be relatively small, the Department of Taxation (“the Department”) would consider implementation of this bill as routine and would not require additional funding. The Department would utilize a manual process to collect and account for the temporary excise tax created by this bill. To the extent that a larger number of pharmaceutical processors receive such licenses and remit the tax, the Department could incur costs. Under this bill, such costs could be recovered by imposing a fee upon such pharmaceutical processors. As the Department generally recovers costs from special taxes that it administers rather than charging a specific fee, the Department suggests that cost recovery language be added to the Appropriation Act rather than authorizing the imposition of a fee.

The Department of Taxation suggests the following budget amendment to recover its costs from the revenues collected: “CC. The Department of Taxation is hereby appropriated revenues from the excise tax on sales of marijuana pursuant to 2022 House Bill 211 to recover any administrative costs for collecting the tax.”

The impact of the \$1 million fee established by this bill is unknown and would depend on the number of pharmaceutical processors that would request permits to sell cannabis products under this bill. Revenues from such fee would be transferred to the Virginia Cannabis Control Authority.

The impact of the 21 percent excise tax established under this bill would depend on sales volume of pharmaceutical processors that receive such permits. Based upon projected marijuana sales in Virginia as determined by JLARC in conjunction with MPG Consulting, it is estimated that this bill could potentially generate revenues of \$23.8 million in Fiscal Year 2023 and \$30.9 million in Fiscal Year 2024. Such estimates are based upon the lower end estimates produced by JLARC, which reflect less optimistic estimates of illegal market conversion, possible periods of disequilibrium between supply and demand, and the possibility that surrounding states or the federal government would also legalize marijuana. The actual impact could be less depending on how many pharmaceutical processors would receive such permits and the amount of sales that they generate. Such funds would be deposited into the General Fund. The provisions of this bill would expire on January 1, 2024.

9. Specific Agency or Political Subdivisions Affected: Department of Health Professions, Department of Taxation, and the Virginia Cannabis Control Authority.

10. Technical Amendment Necessary: No

11. Other Comments: SB621, as introduced by Senator Dunnavant, is a similar bill.