

Bill Number: HB2485H1 **Patron:** Rouse
Bill Title: Cannabis control; retail market; penalties.

Bill Summary: Establishes a framework for the creation of a retail marijuana market in the Commonwealth, to be administered by the Virginia Cannabis Control Authority. The bill allows the Authority to begin issuing all marijuana licenses on September 1, 2025, but provides that no retail sales may occur prior to May 1, 2026.

Budget Amendment Necessary: Yes. **Items Impacted:** Item 260 (TAX), Item 390 (DOC), Item 489.30 (CCA), Item 415 (VSP)

Explanation: See Below.

Fiscal Summary: The proposed bill has varying levels of impact on several state agencies.

General Fund Expenditure Impact:

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
CCA (977)		\$6,469,781				
TAX (161)		\$468,950				
DOC (799)		\$50,000				
VSP (156)		\$221,902	\$204,126	\$204,126	\$204,126	\$204,126
TOTAL		\$7,210,633	\$204,126	\$204,126	\$204,126	\$204,126

Nongeneral Fund Expenditure Impact:

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
CCA		\$2,156,594	\$9,058,469	\$9,058,469	\$9,058,469	\$9,058,469
TOTAL		\$2,156,594	\$9,058,469	\$9,058,469	\$9,058,469	\$9,058,469

Position Impact:

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
CCA		73	73	73	73	73
VSP		2	2	2	2	2
TOTAL		75	75	75	75	75

Fiscal Analysis:

Cannabis Control Authority (CCA)

Under HB2485H1, there will eventually be 604 adult use permits in Virginia. CCA will assess and collect licensing fees for each of these permits to fund the program. This bill will impact the general fund and

nongeneral fund in fiscal year 2026, and the nongeneral fund in subsequent years for the Virginia Cannabis Control Authority (CCA). CCA will require additional staff and resources funded by special fund revenue to prepare and implement the framework for the retail adult use market. In fiscal year 2026, 75 percent of the license fees collected will be directed to the equity business loan fund, thus the CCA will not have enough nongeneral fund revenue to fully fund the program in fiscal year 2026. In subsequent years, the adult use program will be fully funded by licensing fee revenue.

According to CCA, it will need 73 additional staff beginning in fiscal year 2026. The necessary staff categories include Education, Legal and Policy, Investigation, Licensing, Compliance, Information Technology, Human Resources, and Finance, totaling to \$5,924,412 in FY26 and \$7,789,556 in fiscal year 2027. CCA will also need to use resources for IT services and equipment, computer software development and maintenance, motor vehicle and law enforcement equipment, and travel within the Commonwealth of Virginia, totaling to 2,701,963 in fiscal year 2026 and \$1,268,913 in fiscal year 2027.

Department of Taxation (TAX)

This bill would establish a framework for a retail cannabis market in Virginia to be administered by the Virginia Cannabis Control Authority beginning, with limited exceptions, on July 1, 2025. The bill would impose an eight percent tax, in addition to a 1.125 percent sales tax, that would apply on any retail marijuana, retail marijuana products, marijuana paraphernalia sold by a retail store, as well as non-retail marijuana and non-retail marijuana products. The bill would further provide that any locality may, by ordinance, impose an additional tax on these retail and non-retail products at a rate not to exceed 2.5 percent that would apply in addition to local sales, food and beverage, and meals taxes. The taxes imposed would be collected by the seller and remitted to the Authority. Any local tax revenue would be returned to the locality in which it was collected.

The bill would also allow taxpayers to claim income tax deductions on their Virginia returns for ordinary and necessary expenditures made in connection with carrying on a trade or business licensed under the Cannabis Control Act.

If enacted during the regular session of the 2025 General Assembly, this bill would become effective July 1, 2025. The Virginia Cannabis Authority would be authorized to begin accepting license applications, including those from pharmaceutical processors, starting on September 1, 2025. Several provisions of the bill related to the recreational marijuana market would become effective May 1, 2026. The provision of this bill authorizing income tax deductions would be effective for taxable years beginning on and after January 1, 2025.

Administrative Costs

TAX would incur costs of \$468,950 in fiscal year 2026 to implement the necessary changes to the Retail Sales and Use Tax return. This involves updating the Department's forms and systems to apply a different sales tax rate and different tax distribution to cannabis sales, as required under this bill.

Revenue Impact

The provision of this bill imposing a marijuana tax would have an unknown positive impact on state revenues. It is anticipated that revenues from this bill would be generated beginning as early as Fiscal Year 2026 and that they would grow annually.

In November 2020, the Joint Legislative Audit and Review Commission (“JLARC”) published a report entitled “Key Considerations for Marijuana Legalization.” Using the midrange point of JLARC’s estimates as a base, TAX has estimated that this bill could generate total state revenues of \$7.3 million in fiscal year 2026, \$25.66 million in fiscal year 2027, \$42.32 million in fiscal year 2028, \$60.43 million in fiscal year 2029, \$75.67 million in fiscal year 2030, and \$87.84 million in fiscal year 2031. Such revenues include additional revenues estimated to be generated from the eight percent state excise tax and 1.125 percent sales tax that would be imposed by this bill. These estimates exclude the impact of any local 2.5 percent excise tax that could be imposed under this bill.

The detailed estimated revenue impact of the bill is as follows:

**Department of Planning and Budget
2025 General Assembly Session
State Fiscal Impact Statement**

Fiscal Year Revenue Impacts from Retail Marijuana Market (Millions \$)

	FY	FY	FY	FY	FY	FY
	2026	2027	2028	2029	2030	2031
Marijuana Tax (8%)	\$6.41	\$22.52	\$37.15	\$53.04	\$66.41	\$77.10
Sales and Use Tax (1.115%) ¹	\$0.89	\$3.14	\$5.18	\$7.39	\$9.26	\$10.75
	<i>Unknown</i>	<i>Unknown</i>	<i>Unknown</i>	<i>Unknown</i>	<i>Unknown</i>	<i>Unknown</i>
Local Option (2.5%)	<i>up to</i>	<i>up to</i>	<i>up to</i>	<i>up to</i>	<i>up to</i>	<i>up to</i>
	\$2.00	\$7.04	\$11.61	\$16.57	\$20.75	\$24.09
	<i>Unknown</i>	<i>Unknown</i>	<i>Unknown</i>	<i>Unknown</i>	<i>Unknown</i>	<i>Unknown</i>
Local Taxes (Food and Beverage)	<i>Gain</i>	<i>Gain</i>	<i>Gain</i>	<i>Gain</i>	<i>Gain</i>	<i>Gain</i>
Marijuana Tax (8%)²	\$6.41	\$22.52	\$37.15	\$53.04	\$66.41	\$77.10
Pre-K Programs (10%)	\$2.56	\$9.01	\$3.71	\$5.30	\$6.64	\$7.71
Cannabis Equity Reinvestment Fund (60%)	\$1.92	\$6.76	\$22.29	\$31.82	\$39.85	\$46.26
Substance Use Disorder (25%)	\$1.60	\$5.63	\$9.29	\$13.26	\$16.60	\$19.27
Public Health Program (5%)	\$0.32	\$1.13	\$1.86	\$2.65	\$3.32	\$3.85
SUT Distributions (1.115%)	\$0.89	\$3.14	\$5.18	\$7.39	\$9.26	\$10.75
GF - Restricted (1%)	\$0.80	\$2.82	\$4.64	\$6.63	\$8.30	\$9.64
GF - Transfer (0.115%)	\$0.09	\$0.32	\$0.53	\$0.76	\$0.95	\$1.11

¹ Includes 1% education funding based on school age population, 0.125% education transfer based on school age population, less the 0.01% dealer discount.

² Distribution of funds will be 40% for Pre-K, 30% for Cannabis Equity Reinvestment, 25% for Substance Use Disorder, 5% for Public Health Programs until Fiscal Year 2027 when the distribution changes to 10%, 60%, 25%, and 5%, as shown in the left-most column above.

* Estimates based upon JLARC's estimates in its 2020 report, "Key Considerations for Marijuana Legislation."

** Estimates assume retail sales beginning May 1, 2026, and eligible pharmaceutical sales beginning September 1, 2025. All sales would be taxed at the 8% marijuana tax rate, in addition to the local sales tax. Localities would have the option to impose a 2.5% excise tax in addition local sales tax and local food and beverage tax.

***Pharmaceutical Processors Tax estimates generated by adjusting JLARC's sales estimates by applying the annual ratio of medical to recreational sales in Colorado, Oregon, and Illinois to Virginia's estimated recreation sales.

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According to the Department of Taxation, the provision of this bill allowing deductions for certain licensed marijuana businesses would have an unknown negative general fund revenue impact beginning in fiscal year 2026. It is unknown to what extent marijuana businesses operating in Virginia would have business expenses that would otherwise be subject to the federal prohibition on claiming such expenses on income tax returns.

Virginia Department of State Police (VSP)

The proposal states that the Board may require each license applicant to undergo a fingerprint-based national criminal history records search. To that end, according to VSP, the Civil and Applicant Records Exchange (CARE) of the Virginia Central Criminal Record Exchange (CCRE) is tasked with processing criminal history record background checks. Within the fingerprint-based criminal record check process, fingerprint technicians are used to identify the fingerprints to match the information to the appropriate criminal history record. One fingerprint technician and one program support technician can process up to 10,000 fingerprint cards per year. Dependent of the number of additional fingerprint-based records searches as a result of this proposal, VSP estimates that it may need one additional Senior Fingerprint Technician and one Senior Program Support Technician. The estimated general fund cost is \$221,902 in the first fiscal year and \$204,126 in the following fiscal years. In the original version of the bill, the agency overlooked the potential impact on the CARE program.

Department of Agriculture and Consumer Services (VDACS)

At this time, there is an indeterminate fiscal impact on VDACS.

Department of Education

At this time, there is an indeterminate fiscal impact on the Department of Education.

Institutions of Higher Education

At this time, there is an indeterminate fiscal impact on public institutions of higher education.

Office of the Attorney General

According to the Office of the Attorney General, the proposed legislation is not expected to have a fiscal impact on agency operations.

Department of Health Professions

At this time, there is an indeterminate fiscal impact on public institutions of higher education.

Criminal Impact

According to the Virginia Criminal Sentencing Commission (VCSC), the number of individuals who may be convicted of the new misdemeanors and felonies defined in the proposal, and the sentences these individuals may receive, is not known. By creating a regulatory and licensing structure, the proposal may result in fewer convictions related to the unlawful distribution of marijuana. Whether or not, or the extent to which, this will occur is not known.

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VCSC reports that while the proposal would eliminate certain criminal penalties related to marijuana from the Code and reduce penalties for other offenses, it would establish a number of new misdemeanors and felonies for engaging in activities related to the cultivation, manufacture, testing and sale of marijuana without the required license or otherwise engaging in prohibited practices related to the production, sale, etc., of marijuana. The proposal also specifies that monthly tax returns filed by licensees must be made under oath, which may have felony implications for making a materially false statement on the return.

Furthermore, the proposal expands the felony for operating an aircraft while under the influence to include the influence of marijuana. The net effect on the number of convicted individuals and the impact on sentencing patterns cannot be estimated; though, there could be an impact on future local-responsible (jail) and state-responsible (prison) bed space needs of the Commonwealth.

Although there is not enough information available to reliably estimate the increase in jail population as a result of this proposal, any increase in jail population will increase costs to the state. The Commonwealth currently pays localities \$5.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g., correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2024), the estimated total state support for local jails averaged \$56.38 per inmate, per day in FY 2023.

Due to the lack of data, VCSC has concluded, pursuant to § 30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 2, 2024 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

Other: HB2485H1 is a companion to SB970S1.