

Fiscal Estimate Narratives

DOT 9/12/2019

LRB Number	19-3999/1	Introduction Number	SB-377	Estimate Type	Original
Description marijuana possession, regulation of marijuana distribution and cultivation, medical marijuana, operating a motor vehicle while under the influence of marijuana, requiring the exercise of rule-making authority, granting rule-making authority, making an appropriation, and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Law enforcement officers would need to verify the validity of registry identification cards. DOJ manages the Transaction Information for the Management of Enforcement (TIME) system. It is assumed that checking registry identification cards will be an allowable query through that system. There is no cost for law enforcement agencies to run queries through that system.

Under this bill law enforcement officers would need to detect the blood delta-9-tetrahydrocannabinol (THC) concentration for impaired driving traffic stops. A person would be considered impaired if their blood THC concentration is 5.0 ng/mL or more. Under current law, a person may not operate a vehicle with any detectable amount of blood THC concentration. There may be increased costs due to detection if law enforcement would need to send blood samples to out of state laboratories for testing. Currently, law enforcement uses Advanced Roadside Impaired Driving Enforcement (ARIDE) and Drug Recognition Experts (DREs) to detect impairment and would be able to continue to utilize these programs.

There is a training component for this law. Training materials and curriculum for law enforcement agencies is produced by DOJ, Training and Standards. Impaired driving will remain a violation of the law, and law enforcement officers in the Department of Transportation are already trained to recognize and test for this offense. This bill does not require law enforcement officers to undertake new training, but some local law enforcement agencies may choose to expend additional resources to train their officers.

Adding new crimes to the Department of Transportation's Traffic and Criminal Software (TraCS), as well as adding the new crimes to the internal software of local law enforcement agencies, is routine and is not something that is particularly costly or unique.

Long-Range Fiscal Implications



State of Wisconsin
Wisconsin Department of Transportation

MEMORANDUM

To: Executive Offices

From: Division of State Patrol

Date: 9/10/19

Subject: Analysis for SB 377 relating to: marijuana possession, regulation of marijuana distribution and cultivation, medical marijuana, operating a motor vehicle while under the influence of marijuana, requiring the exercise of rule-making authority, granting rule-making authority, making an appropriation, and providing a penalty.

1. Effect on Existing State Law
This legislation would legalize marijuana for both medical and recreational use.
2. Legislative Action in Previous Session
2017 AB 482
2015 AB 224
2013 AB 812
3. Policy Significance
Recreational Use
 - Must be 21 to possess no more than 2 ounces of marijuana. A non-resident who is 21 may not possess more than ¼ ounce of marijuana.
 - **Civil forfeiture** not more than \$1,000 and no more than 90 days in prison for maximum amount a person is allowed to possess but not more than 28 grams
 - **Class B misdemeanor** for a person who possesses more than 28 grams of marijuana
 - **Class I felony** if a person tries to hide more than 28 grams of marijuana, puts a security system in place to alert them to the presence of law enforcement, or place a trap that could injure or kill a person approaching the area containing the marijuana.
 - Eliminates the prohibition on possession or using drug paraphernalia that relates to marijuana consumption
 - Creates a process to obtain a permit to produce, process or sell marijuana for recreational use and pay an excise tax either from DOR or DATCP.
 - DOR – permit to process, distribute or sell marijuana. Can't operate within 500 feet of a school, playground, recreation facility, child care facility, public park, public transit facility or library. May not sell to a minor nor allow a minor to be on premises.
 - The violation for selling to a minor or allowing a minor on premises is a civil forfeiture and the permittee could face suspension of the permit.
 - A minor who falsely represents his or her age to buy marijuana or knowingly enters the premises without a parent, guardian or spouse who is at least 21 is subject to a civil forfeiture.
 - DATCP – permit for producers and processors. Can't operate as a producer within 500 feet of a school.
 - Must be 21 to get a permit, cannot have been convicted of certain crimes
 - **Class I felony** to sell, distribute or transfer marijuana, or possess marijuana with the intent to sell or distribute it without a DOR permit.
 - Increases to a **Class H felony** if the person sells, distributes, or transfers the marijuana to a person under 21 and the person is at least 3 years older than the minor.

- A person who is growing more than 6 marijuana plants (that have reached the flowering stage) but less than 12 without a permit is subject to a **civil forfeiture** and/or imprisonment not more than 90 days.
- **Class B misdemeanor** for a person who possesses more than 12 marijuana plants (that have reached the flowering stage).
 - **Class I felony** if the person tries to hide the plants or has a security system to alert to the presence of law enforcement, as a method of intimidation or a trap that may injure or kill someone in the area with the plants.

Medical Use

- Permits medical use and allows a person's caregiver to acquire, possess, cultivate or transport marijuana if the person is unable to do so themselves or if the person is under 18.
- DHS would be required to establish a medical marijuana registry and issue identification cards. The application for a medical marijuana card would be accompanied by a physician's certification. There would be a registration fee of \$150. The card is valid for 4 years with the option for renewal.
- DHS would not be allowed to disclose who it has issued cards to or received applications from, unless it's for law enforcement to verify a valid card.
- Would allow reciprocity with other states that allow for medical uses of marijuana for the purposes of a person visiting or allow for them to assist with a person's medical use of marijuana.
- Compassion Centers would be licensed and regulated by DHS. They would be allowed to distribute or deliver marijuana or drug paraphernalia or possess or manufacture marijuana or drug paraphernalia with the intent to deliver or distribute to facilitate the medical use of marijuana
 - Compassion centers could not be located within 500 feet of a school
 - Compassion centers could not distribute to a person more than 6 marijuana plants and 3 oz. of usable marijuana (the maximum medical amount) and cannot possess in excess of the quantity that DHS determines based on the number people they serve.
- DHS would register THC testing labs to test marijuana for contaminants and research the use of medical marijuana. These labs would also train on the safe cultivation of marijuana.
- Would require health insurance policies to provide coverage of prescription drugs for the medical use of THC.

General Regulation

- **OWI** – a person may not operate a vehicle with a THC concentration of 5.0 ng/mL or more, this bill does not change the penalty structure for impaired driving.
- Defines marijuana as a lawful product for the purposes of the fair employment act.
- A person cannot be denied unemployment insurance benefits for those who test positive for THC. Also exempts THC, including marijuana from drug testing for certain public assistance programs.

4. Administrative Significance

Under this bill the Division of State Patrol would enforce new marijuana laws as it relates to medical and recreational use as impaired driving would remain a violation of the law. Sworn staff would receive training on new laws and methods of detection.

5. Fiscal Effect

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6. Laws in Other States

As of 2019, Alaska, California, Colorado, Illinois (in effect Jan 2020), Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont, and Washington have legalized marijuana for recreational use.

As of 2019, Arizona, Arkansas, Connecticut, Delaware, Florida, Hawaii, Louisiana, Maryland, Minnesota, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, West Virginia, and Utah have legalized medical marijuana but have not yet adopted full legalization.

<https://www.governing.com/gov-data/safety-justice/state-marijuana-laws-map-medical-recreational.html>

National Council of State Legislatures [state by state comparison of recreational marijuana laws](#)

National Council of State Legislatures [state by state comparison of medical marijuana laws](#)

6. Summary and Recommendation

This bill is a companion to AB 220.

8. Prepared by

Jeremy Kloss – Program and Policy Analyst, Wisconsin DSP

Stephanie Arduini – Program and Policy Analyst, Legislative Liaison, Wisconsin DSP