

Fiscal Estimate Narratives

DA 6/6/2019

LRB Number	19-2612/2	Introduction Number	SB-188	Estimate Type	Original
Description regulating hemp, providing an exemption from emergency rule procedures, granting rule-making authority, and making an appropriation					

Assumptions Used in Arriving at Fiscal Estimate

This bill makes various changes to the statutes to bring Wisconsin into conformity with the 2018 Farm Bill. In addition, this bill would promulgate various other changes to current law to establish and regulate the hemp marketplace in Wisconsin.

--

Responsive District Attorneys are most concerned with the provision of this bill that removes THC from the definition of restricted controlled substance as applicable to the operation of a motor vehicle, an all-terrain vehicle, a utility terrain vehicle, an off-highway motorcycle, a snowmobile, or a motorboat and the handling of a firearm.

If this proposal were to be adopted into law, it would make prosecution of drug impaired (THC) drivers considerably more difficult. Prosecutors would still be able to proceed with cases under 346.63(1)(a) for driving while impaired, but they would no longer be able to rely on the per se restriction for driving with any detectable amount of Delta 9 THC in the system. This would be analogous to removing the Prohibited Alcohol Concentration (0.08%) provisions from Wisconsin's OWI statutes.

It is believed that this change in law would cause more drug impaired driving and make drug impaired driving (THC) more difficult to prosecute. Trials could become longer. Additional expert witnesses could be necessitated to discuss THC effect on motor skills, judgment, reaction times and THC interactions with other drugs. Pre-trial motions and post-conviction litigation would increase as defendants could attempt to characterize any marijuana usage as hemp.

According to the most recent workload analysis, the statewide DA offices remain 166 FTE prosecutors short of ideal staffing levels. To the extent that any proposed legislation places additional burdens on the DA offices, this Agency requests that it be offset with additional FTE.

Long-Range Fiscal Implications

This change in law will require additional prosecutor time to resolve these cases. Data with which to determine the scope of the resource increase is not available.