



NORTH CAROLINA GENERAL ASSEMBLY

2025 Session

Legislative Incarceration Fiscal Note

Short Title: Regulate Hemp-Derived Consumables.
Bill Number: House Bill 328 (Fourth Edition)
Sponsor(s):

FISCAL IMPACT SUMMARY

Criminal offenses are classified as misdemeanors (Class 3 as the lowest and Class A1 as the highest) and felonies (Class I to Class A). There are three types of legislative changes to offenses that may result in a fiscal impact to the State's criminal justice system: creating a new offense, changing the class of an existing offense, or changing the scope of an existing offense.

This proposed legislation would **create two new Class D felonies, three new Class E felonies, three new Class F felonies, six new Class G felonies, six new Class H felonies, three new Class I felonies, six new Class A1 misdemeanors, one new Class 1 misdemeanor, two new Class 2 misdemeanors, and two new Class 3 misdemeanors.** Because these are new charges, there is no data to predict how many individuals may be charged or convicted. **Therefore, Fiscal Research is unable to project the fiscal impact** of the proposed legislation on the criminal justice system.

Each additional person charged under the proposed offenses will have a cost to the judicial system and each additional person convicted will have a cost to the correction system. The **cost of one charge and conviction** is listed in the table below, along with the percent of cases that incur those costs at that offense level.

Cost of One Charge and Conviction										
Prosecution and Defense			Active Sentence					Suspended Sentence		
Offense Class	Admin. Office of the Courts	Indigent Defense Services	DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
D	\$8,984	\$1,503	100%	\$161,622	60	\$3,370	12	0%	\$0	0
E	\$4,197	\$890	57%	\$70,036	26	\$3,370	12	43%	\$8,986	32
F	\$2,364	\$765	54%	\$48,487	18	\$2,527	9	46%	\$8,424	30
G	\$1,951	\$660	41%	\$40,406	15	\$2,527	9	59%	\$7,301	26
H	\$1,300	\$517	36%	\$26,937	10	\$2,527	9	64%	\$6,739	24
I	\$946	\$430	16%	\$16,162	6	\$2,527	9	84%	\$5,897	21
Misdemeanor	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A1	\$599	\$284						61%	\$4,493	16



1	\$346	\$254	Active sentences for misdemeanor convictions are served in County jail.	Misdemeanants do not receive PRS.	61%	\$3,931	14
2	\$183	\$254			75%	\$3,650	13
3	\$63	\$210			82%	\$3,650	13
Note: Court costs reflect the average cost per disposition. Costs for active sentences, probation, and post-release supervision reflect the total cost of the sentence or supervision period. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and impaired driving.							

FISCAL IMPACT OF H.B.328, V.4

	<u>FY 2025-26</u>	<u>FY 2026-27</u>	<u>FY 2027-28</u>	<u>FY 2028-29</u>	<u>FY 2029-30</u>
State Impact					
General Fund Revenue	-	-	-	-	-
Less Expenditures	-	-	-	-	-
General Fund Impact	No Estimate Available - Refer to Fiscal Analysis section				

NET STATE IMPACT	No Estimate Available - Refer to Fiscal Analysis section
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TECHNICAL CONSIDERATIONS: See Technical Considerations Section

FISCAL ANALYSIS

Bill Summary:

Parts I-III

These sections of the bill create a new regulated market for hemp-derived consumable products (HDCPs) and Delta-9 tetrahydrocannabinol (THC) and create a number of civil and criminal penalties tied to that market scheme.

The new G.S. 18D-101 establishes sales restrictions for HDCPs, such as prohibiting sales to individuals under the age of 21 or the distribution of samples of HDCPs in public. Initial violations of the restrictions in this section carry civil penalties that escalate based on the number of prior offenses.

Subsection (g) creates new criminal penalties for individuals who sell HDCPs without a valid license. In addition to the civil penalties proscribed, selling without a valid license would be a **Class A1 misdemeanor for the second offense and a Class H felony for the third or subsequent offenses**. Subsection (g) also makes it a **Class H felony** to knowingly sell a HDCP product with more than a 0.3% concentration of Delta-9 THC. Finally, Subsection (g) makes it a **Class G felony** to knowingly sell or distribute a prohibited HDCP.

The new G.S. 18D-101A establishes sales and transfer restrictions on producers of hemp that will eventually be used to create HDCPs. Producers are prohibited from knowingly selling or transferring hemp that has been prepared for use in an HDCP to an entity that is not a licensed manufacturer. Violation is a civil penalty for the first offense, a **Class A1 misdemeanor for the**

second offense, and a Class H felony for the third or subsequent offenses. Producers are also prohibited from knowingly selling or transferring processed hemp that is intended to be used to manufacture a prohibited HDCP. Violation is a **Class G felony**.

The new G.S. 18D-102 establishes offenses related to purchasing, attempting to purchase, or possessing HDCPs by persons under the age of 21. The section covers activities such as giving someone under 21 an HDCP, possessing, purchasing, or attempting to purchase an HDCP while under the age of 21, using false identification to obtain HDCPs, or allowing someone else to use your identification to illegally obtain HDCPs. Violation of any of the offenses in this section is a **Class 2 misdemeanor** if the perpetrator is under the age of 21, and a **Class 1 misdemeanor** if the person is at least 21. Aiding or abetting any of the prohibited behaviors in this section are also punishable by the same Class of offense, depending on the age of the person providing aid.

The new G.S. 18D-102.5 would make it a **Class A1 misdemeanor** to possess a prohibited HDCP.

The new G.S. 18D-103 concerns offenses involving manufacture and distribution of HDCPs. The bill would make it a **Class A1 misdemeanor** for a manufacturer or distributor of HDCPs to do any of the following:

1. Knowingly, or having reason to know, distribute samples of HDCPs in or on a public street, sidewalk, park, or public building
2. Manufacture or distribute HDCPs without a license
3. Knowingly manufacture or distribute HDCPs with concentrations of more than 0.3% Delta-9 THC

The section also makes it a **Class G felony** to manufacture or distribute a prohibited HDCP.

The new G.S. 18D-300 establishes the Alcohol Law Enforcement Division as the primary enforcement agency for HDCPs. Subsection (b) would make it a **Class 2 misdemeanor** for anyone to resist or obstruct an ALE agent attempting to make a lawful inspection of an HDCP distribution or retail establishment.

Part IV

This section of the bill adds Kratom to the list of banned substances on Schedule VI under the existing G.S. 90-94. Substances listed in Schedule VI are subject to a number of regulations and criminal penalties, and as such adding Kratom to this Schedule will result in creation of **two new Class 3 misdemeanors, three new Class I, Class H, Class G, Class F, and Class E felonies, and two new Class D felonies**. These new charges are detailed below:

- **Class 3 Misdemeanors:**
 - Simple Possession of the controlled substance
 - Attempt or conspire to commit this offense
- **Class I Felonies:**
 - Manufacture, deliver, or possess with intent to manufacture, deliver, or sell the controlled substance
 - Create, sell, deliver, or possess with intent to sell or deliver a counterfeit version of the controlled substance
 - Attempt or conspire to commit any of these offenses



- **Class H Felonies:**
 - Selling the controlled substance
 - Employing a minor over the age of 13 to manufacture, deliver, possess with intent to manufacture, sell, or deliver the controlled substance while the employer is between the ages of 18 and 20
 - Attempt or conspire to commit any of these offenses
- **Class G Felonies:**
 - Hiring or intentionally employing a minor over the age of 13 to sell the controlled substance while the employer is between the ages of 18 and 20
 - Hiring or intentionally employing a minor under the age of 13 to manufacture, deliver, or possess with intent to manufacture, sell, or deliver the controlled substance while the employer is between the ages of 18 and 20
 - Attempt or conspire to commit any of these offenses
- **Class F Felonies:**
 - Employing a minor under the age of 13 to sell the controlled substance while the employer is between the ages of 18 and 20
 - Hiring or intentionally employing a minor over the age of 13 to manufacture, deliver, or possess with intent to manufacture, sell, or deliver the controlled substance while the employer is 21 years of age or older
 - Attempt or conspire to commit any of these offenses
- **Class E Felonies:**
 - Hiring or intentionally employing a minor over the age of 13 to sell the controlled substance while the employer is 21 years of age or older
 - Hiring or intentionally employing a minor under the age of 13 to manufacture, deliver, or possess with intent to manufacture, sell, or deliver the controlled substance while the employer is 21 years of age or older
 - Attempt or conspire to commit any of these offenses
- **Class D Felonies:**
 - Hiring or intentionally employing a minor under the age of 13 to sell the controlled substance while the employer is 21 years of age or older
 - Attempt or conspire to commit this offense

Summary for All Parts of H.B.328

Because all of these are new offenses, there is no historic data available for cost projections, and as such **Fiscal Research is unable to provide any cost projections for this bill.**

Capital Expenses

Capital costs emerge when prison bed demand exceeds capacity. Based on the most recent prison population and bed capacity projections from the Sentencing and Policy Advisory Commission (SPAC), the State will have sufficient prison beds available beyond the five-year fiscal note horizon. Therefore, Fiscal Research anticipates there will be **no additional prison capital requirements** as a result of this proposed legislation.



Operating Expenses

The table in the Fiscal Impact Summary lists the costs specific to the charge or charges included in this proposal.

TECHNICAL CONSIDERATIONS

- Offense changes are typically effective on December 1. FRD assumes that costs incurred in the first year to the judicial and correction systems would be less than annualized costs due to lag time in charges and convictions.
- This estimate assumes that expanding existing or creating new criminal offenses produces no deterrent or incapacitative effect on crime rates. Likewise, FRD assumes no deterrent effects for any modifications to criminal penalties. The estimates in this Incarceration Note make no assumptions about the larger impact on crime rates or costs to society or the State.
- This estimate makes no prediction regarding the likelihood that a prosecutor will charge an offense based on any proposed increases or decreases to the offense class level. This estimate also does not attempt to predict the impact of offense class changes on plea negotiations. FRD assumes the proposed offense class is charged and convicted at the same rate as the prior level.
- For reference, Appendix A to this document shows the costs per charge/conviction for each class of offense in North Carolina.

DATA SOURCES

Department of Adult Correction; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis and Technical Consideration sections of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

ESTIMATE PREPARED BY

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June 17, 2025



Signed copy located in the NCGA Principal Clerk's Offices



APPENDIX A: COSTS PER CHARGE/CONVICTION BY OFFENSE CLASS

Cost of One Charge and Conviction										
	Prosecution and Defense		Active Sentence					Suspended Sentence		
Offense Class	Admin. Office of the Courts	Indigent Defense Services	DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A	\$70,930	\$9,190	100%	NA	Life	N/A	N/A	0%	\$0	0
B1	\$30,500	\$3,668	100%	\$622,245	231	\$3,370	12	0%	\$0	0
B2	\$22,638	\$3,668	100%	\$371,731	138	\$3,370	12	0%	\$0	0
C	\$10,994	\$2,250	100%	\$223,577	83	\$3,370	12	0%	\$0	0
D	\$8,984	\$1,503	100%	\$161,622	60	\$3,370	12	0%	\$0	0
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