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FISCAL IMPACT REPORT

SPONSOR <u>Trujillo/Lujan/Ferrary/Sariñana/Jaramillo</u>	LAST UPDATED _____
	ORIGINAL DATE <u>3/3/23</u>
SHORT TITLE <u>Cannabis Regulation Act Changes</u>	BILL NUMBER <u>House Bill 418</u>
	ANALYST <u>Anderson</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	\$260.8	\$260.8	\$521.6	Recurring	Operating Budget Regulation Licensing Department Cannabis Control Division

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Relates to House Bill 157 Cannabis Packaging Requirements
Relates to an appropriation in the General Appropriations Act, HAFCS/HB2

Sources of Information

LFC Files

Responses Received From
Regulation Licensing Department (RLD)

SUMMARY

Synopsis of House Bill 418

House Bill 418 amends “Unlawful Manufacturing of Cannabis Extract” in Section 1 of the Cannabis Regulation Act, Section 26-2C-17 NMSA 1978, adding “Unlawful Syntheses of Tetrahydrocannabinol.”

The bill prohibits the synthesis of tetrahydrocannabinols, also known as Delta 8 THC, without prior approval from the Cannabis Control Division (CCD) of the Regulation and Licensing Department (RLD) and accompanying scientific evidence showing it is safe for human consumption.

The bill creates a section of the Cannabis Regulation Act requiring cannabis retail locations post signs warning consumers and qualified patients over potential risks in consuming cannabis. It

also requires CCD to create a training program for employees of cannabis retail licensees, which shall include content regarding potential long-term effects associated with cannabis consumption by July 1, 2024. The employee program would make the employee training program mandatory by July 1, 2025.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed.

FISCAL IMPLICATIONS

RLD said it will require additional funding for CCD to create, implement, and administer the employee training program mandated by HB418. CCD estimates it would require 4 FTE positions, one to manage this particular project and three to develop and implement the program. The positions are forecasted to be an administrative/operations manager II, an estimated annual cost of \$89.4 thousand and three instructional coordinators, an estimated annual cost of \$571 thousand each. These four positions would total \$260.8 thousand annually.

HAFCS/HB2 appropriates a \$6.5 million base budget to CCD for FY24, \$3.3 million in general fund, and \$3.2 million in other revenues. CCD had a 28.5 percent vacancy rate at the end of FY22. HAFCS/HB2 appropriates 29 FTE to the division.

It is unclear the impact this statutory change will have on the cannabis excise tax revenue to the state, currently 12 percent for nonmedical cannabis sales, without more information on delta 8 product sales in New Mexico.

SIGNIFICANT ISSUES

The National Food and Drug Administration (FDA) said it is important for consumers to be aware that delta-8 THC products, tetrahydrocannabinols, have not been evaluated or approved by the FDA for safe use in any context, further stating, “They may be marketed in ways that put the public health at risk and should especially be kept out of reach of children and pets.” The FDA received 104 reports of adverse events in patients who consumed delta-8 THC products between December 1, 2020, and February 28, 2022. Of these 104 adverse event reports:

- 77 percent involved adults, 8 percent involved pediatric patients less than 18 years of age, and 15 percent did not report age.
- 55 percent required intervention (e.g., evaluation by emergency medical services) or hospital admission.
- 66 percent described adverse events after ingestion of delta-8 THC-containing food products (e.g., brownies, gummies).
- Adverse events included, but were not limited to: hallucinations, vomiting, tremor, anxiety, dizziness, confusion, and loss of consciousness.

<https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc>

The FDA also reported the following:

The National Poison Control Centers received 2,362 exposure cases of delta-8 THC products between January 1, 2021 (i.e., date that delta-8 THC product code was added to database), and February 28, 2022. Of the 2,362 exposure cases:

- 58 percent involved adults, 41 percent involved pediatric patients less than 18 years of age, and 1 percent did not report age.
- 40 percent involved unintentional exposure to delta-8 THC and 82 percent of these unintentional exposures affected pediatric patients.
- 70 percent required health care facility evaluation, of which 8 percent resulted in admission to a critical care unit; 45 percent of patients requiring health care facility evaluation were pediatric patients.
- One pediatric case was coded with a medical outcome of *death*.

RLD has expressed concerns regarding the new legal decision-making responsibility that will result from this bill:

Of significant concern to the RLD is the fact that no staff of the CCD (or other division of the RLD) has the training or expertise that would clearly be necessary to perform the detailed scientific analysis necessary to determine that any particular process or operation meets the standard necessary to conclude that “synthesized tetrahydrocannabinol will not cause a significant threat to public health and safety.” This is simply not a function that the CCD is qualified to perform. Any such decision that might be made by the CCD on this topic would certainly expose the RLD, and the State of New Mexico as a whole, to claims for liability. At the least, if this provision of HB418 is enacted, it would become a virtual certainty that the CCD/RLD/State would be pulled into costly litigation on this subject.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 157 amends Section 26-2C-17 NMSA 1978 of the New Mexico Cannabis Regulation Act, cannabis products; packaging and labeling; division rulemaking. The bill provides language concerning new requirements for allowable and prohibited types of cannabis product packaging and labeling.

GA/rl/ne/mg