

LFC Requestor: Anderson, Ginger

2024 LEGISLATIVE SESSION  
AGENCY BILL ANALYSIS

Section I: General

Chamber: House

Category: Bill

Number: 64

Type: Introduced

Date (of THIS analysis): 01/17/2024

Sponsor(s): Andrea Reeb

Short Title: Cannabis Packaging Requirements

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	FY 25		
\$ 0	\$ 0	N/A	n/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	FY 25	FY 26		
\$ 0	\$ 0	\$ 0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$ 0	\$ 0	\$ 0	\$ 0	N/A	N/A

### Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

### Section IV: Narrative

#### 1. BILL SUMMARY

a) Synopsis

House Bill 64 (HB64) would amend NMSA 26-2c-17 CANNABIS PRODUCTS – PACKAGING AND LABELING – DIVISION RULEMAKING; to include additional requirements restricting the use of images and packaging designed to appeal to children and to add a warning including pictorial representation that the product is not safe for child consumption.

Is this an amendment or substitution?  Yes  No

Is there an emergency clause?  Yes  No

b) Significant Issues

HB2, passed in the 2021 Special Session, instructed the Cannabis Control Division to promulgate rules to establish labeling and packaging requirements related to Cannabis Product Safety. House Bill 2 required packages to be resealable, child-resistant, compostable, and recyclable or made from recycled material. Packages and labels were also to be designed so as not to appeal to children. To address these concerns, the Cannabis Control Division has promulgated rules prohibiting brands designed to be appealing to a child - NMAC 16.8.3.8. In addition, the Cannabis Control Division has promulgated rules related to labeling – NMAC 16.8.3.9. HB 64 would codify in statute these requirements already established within these rules and regulations and would also require a pictorial representation that the cannabis product is not safe for child consumption.

In the US, adult use cannabis legalization has led to growing concerns of exposure among children, particularly due to edible products. One study found that calls to national poison control centers related to cannabis exposures increased from 2017-2019 with edibles having the highest proportion of calls for children 10 years old or younger (Dilley et al.,

2021. <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2780068>). Another study found a 1375% increase in cannabis-related calls for children less than 6 years of age from 2017 (207 cases) to 2021 (3,054 cases) (Tweet et al., 2023. <https://publications.aap.org/pediatrics/article/151/2/e2022057761/190427/Pediatric-Edible-Cannabis-Exposures-and-Acute?autologincheck=redirected>). 22.7% of those cases were admitted to the hospital.

Cannabis-related emergency department visits among children have also increased in recent years (CDC, 2021. <https://www.cdc.gov/marijuana/what-we-know.html>, Roehler et al., 2023. <https://www.cdc.gov/mmwr/volumes/72/wr/mm7228a1.htm>).

In New Mexico, cannabis-related calls to the New Mexico Poison Control Center have increased over time with the number of calls increasing from 84 cases in 2015 to 216 calls in 2022 (Data obtained from New Mexico Poison and Drug Information Center and analyzed by NMDOH Substance Use Epidemiology Section). Of the 216 cannabis-related calls in New Mexico in 2022, 50% of calls were for patients age 10 years or younger.

The National Confectioners Association also provides guidance indicating packaging should be distinct and not mimic non-cannabis containing products or brands. “States should, *very early in marijuana legalization*, enact laws or promulgate regulations that clearly distinguish marijuana-containing edibles from conventional foods, protect consumers (especially children) from harm and prohibit abuse of the intellectual property of other companies.” ([https://candyusa.com/policy-advocacy/national-confectioners-association-principles-on-cannabis-containing-edibles#\\_ftn2](https://candyusa.com/policy-advocacy/national-confectioners-association-principles-on-cannabis-containing-edibles#_ftn2))

HB64 affects the New Mexico Regulation and Licensing Department, Cannabis Control Division Regulation NMAC 16.8.3

## 2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?  
 Yes  No
- Is this proposal related to the NMDOH Strategic Plan?  Yes  No
  - Goal 1:** We expand equitable access to services for all New Mexicans
  - Goal 2:** We ensure safety in New Mexico healthcare environments
  - Goal 3:** We improve health status for all New Mexicans
  - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

By ensuring cannabis products are not enticing to children we can reduce the number of children accidentally consuming these products and reduce the potential negative health impacts to children.

## 3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?  
 Yes  No  N/A
- If there is an appropriation, is it included in the LFC Budget Request?  
 Yes  No  N/A
- Does this bill have a fiscal impact on NMDOH?  Yes  No

**4. ADMINISTRATIVE IMPLICATIONS**

Will this bill have an administrative impact on NMDOH?  Yes  No

**5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP**

None

**6. TECHNICAL ISSUES**

Are there technical issues with the bill?  Yes  No

**7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)**

- Will administrative rules need to be updated or new rules written?  Yes  No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)?  Yes  No
- Does this bill conflict with federal grant requirements or associated regulations?  
 Yes  No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs?  Yes  No

The Cannabis control Division would need to update their regulations under 16.8.3 NMAC.

**8. DISPARITIES ISSUES**

None

**9. HEALTH IMPACT(S)**

With the changes in packaging this bill could potentially reduce the number of children accidentally consuming cannabis products, possibly reducing hospital visits, poison control calls, and other negative outcomes associated with a child consuming cannabis products.

**10. ALTERNATIVES**

The Cannabis Control Division within the Regulation and Licensing Department could update their rules and regulations specific to cannabis product packaging and labeling.

**11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

If HB 64 is not enacted, cannabis product packaging requirements will not change.

**12. AMENDMENTS**

None