

LFC Requester:	Ginger Anderson
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

<i>Check all that apply:</i>				Date Prepared:	1/05/2024
Original	X	Amendment		Bill No:	HB 66
Correction		Substitute			

Sponsor:	Andrea Reeb	Agency Name and Code Number:	305 – New Mexico Department of Justice
Short Title:	Cannabis in Delinquency Act	Person Writing Analysis:	Greer Staley
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB 66 proposes changes to Chapter 32A of the Children’s Code (Delinquency) and Chapter 26, Article 2C (Drugs and Cosmetics - Cannabis Regulation Act) under the New Mexico Statutes. The changes will impact the current civil and delinquent penalties for persons under eighteen years of age for buying, possessing, and or producing cannabis.

Specifically, HB 66 removes the civil penalty for persons under eighteen who produce cannabis products by removing §26-2C-27(D). It removes the civil penalty for possession of cannabis by someone under eighteen by amending the language in §26-2C-30(A). And finally, it leaves the civil penalty for persons under eighteen who traffic cannabis products but references penalties in the Delinquency Act in §26-2C-30(C). It then adds a section and definitions to the Delinquency Act creating new delinquent acts related to cannabis offenses.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

Currently, the Cannabis Control Act imposes a civil penalty for persons under eighteen who traffic cannabis (§26-2C-28(C)). HB 66 proposes a new reference in that same section that reads “[i]n addition to the penalties provided in the Delinquency Act,” allowing for both a delinquent penalty in addition to the current civil penalty. The criminal penalty for persons over eighteen years in the Cannabis Control Act in §26-2C-28(D) and (E) allow for misdemeanor and felony penalties for the trafficking of cannabis.

The Delinquency Act does allow for punishment of “an act committed by a child that would be designated as a crime under the law if committed by an adult” §32A-2-3(A) and for “an offense punishable as a felony” in §32A-2-3(D)(1)(k).

However, the newly proposed language in the Delinquency Act §32A-2-3(D)(8), while describing many acts, does not expressly include selling, trafficking or otherwise distributing cannabis by a person under eighteen. Adding those acts into this section would clarify the intent of the creation of delinquent act for selling or distributing

cannabis.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to:

HB 63 Cannabis School Use Prevention Resource Act

HB 64 Cannabis Packaging Requirements

HB 65 Cannabis Crime Reasonable Suspicion

HB 128 Cannabis Regulation Changes

TECHNICAL ISSUES

Proposed Changes to Section 32A-2-3:

HB 66 adds three definitions of cannabis prior to the current §32A-2-3(A) which defines “delinquency act.” The primary purpose of the definition section §32A-2-3 is to define delinquency acts, and the subsections following outline what offenses are included. There are currently no other definitions other than “delinquent act” in the definition section.

Following the current definition of delinquent act, are subsections that include definitions when necessary. The newly proposed cannabis section, §32A-2-3(D)(8), includes some definitions, so it follows that the cannabis definitions proposed as sections (A), (B) and (C) of §32A-2-3 should be included within the body of proposed §32A-2-3(D)(8) or as subsections to better track the current structure of the Delinquency Act.

The three definitions added are “cannabis,” “cannabis extract” and “cannabis product.” These definitions generally track the language used in §26-2C-2 - Cannabis Control Act, but do not include the definition of Cannabis from §26-2C-2(B) in its entirety.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

The structure should be amended to address the technical issues, follow the current structure, and avoid possible ambiguity related to trafficking.