

LFC Requester: _____

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1/25/24

Bill No: HB 239-280

Sponsor: Martin R. Zamora & Andrea Reeb
Short Title: Cannabis as Prison Contraband

Agency Name and Code Number: Law Office of the Public Defender - 280
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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: See below
Duplicates/Relates to Appropriation in the General Appropriation Act: See below

SECTION III: NARRATIVE

BILL SUMMARY

An identical bill (2023 HB 429) was introduced during the 2023 Regular Session; that bill passed the House but died in the Senate Judiciary Committee. This bill is reintroduced by two of the three original sponsors.

This bill would amend NMSA 1978, § 30-22-14 (1976), to add cannabis and cannabis products to the statutory definition of “contraband” prohibited in the New Mexico penitentiaries or other institutions where adult prisoners are confined. Bringing contraband into a jail is a fourth-degree felony; bringing contraband into a prison is a third-degree felony.

The bill would add cannabis or cannabis products to the definition of prison/jail “contraband” but exempts those items if carried into the detention center through regular channels and pursuant to the direction/prescription of a healthcare provider. *See* Section (C)(4)(e).

This bill would define “cannabis,” “cannabis extract,” and “cannabis product” to include all parts of the plant genus *cannabis* containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry-weight basis (the federal limit), as well as the seeds or resin of the plant, and any compound, manufacture, derivative, etc., of the plant, its seeds, or its resin, including products containing those derivatives (such as edibles and topicals). *See* Sections (C)(1), (2), and (3).

Finally, the bill would correct an apparent oversight in Section (C)(4)(d) by clarifying that controlled substances cannot be carried into either a prison or a jail except through regular channels and as directed/prescribed by a healthcare provider.

FISCAL IMPLICATIONS

This bill would not create a new offense but simply clarify/reinstate one that existed prior to the legalization of medical and recreational marijuana in New Mexico. As such, it is difficult to anticipate how many additional criminal charges would result from passage of this bill. Some of the definitions in the bill may necessitate expert testing and consultation in forensic chemistry during litigation of these offenses.

SIGNIFICANT ISSUES

None noted.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There are numerous other bills regarding the regulation of cannabis proffered so far in this session. *See below*. None of these appear to be directly about cannabis in the detention center context, but some of the bills that relate to reasonable suspicion and regulations may conflict or overlap.

<u>Bill ID</u>	<u>Title</u>	<u>Session</u>
HB 55	ORAL FLUID DRUG DETECTION PILOT PROJECT	2024 Regular
HB 63	CANNABIS SCHOOL USE PREVENTION RESOURCE ACT	2024 Regular
HB 64	CANNABIS PACKAGING REQUIREMENTS	2024 Regular
*HB 65	CANNABIS CRIME REASONABLE SUSPICION	2024 Regular
HB 66	CANNABIS IN DELINQUENCY ACT	2024 Regular
HB 86	STATE POLICE PROTECTION & TESTING EQUIPMENT	2024 Regular
HB 99	NO SMOKING IN RACINOS	2024 Regular
HB 128	CANNABIS REGULATION CHANGES	2024 Regular
HB 150	RENEWABLE ENERGY PRODUCTION TAX ACT	2024 Regular
HB 170	CANNABIS EMPLOYMENT PROTECTION LIMITS	2024 Regular
HB 176	GENERAL APPROPRIATION ACT OF 2024	2024 Regular
HB 213	LIQUOR TAXES & DEFINITIONS	2024 Regular
HB 226	CANNABIS LICENSURE BACKGROUND CHECKS	2024 Regular
HB 239	CANNABIS AS PRISON CONTRABAND	2024 Regular
SB 6	CANNABIS REGULATION CHANGES	2024 Regular
SB 72	TOBACCO PRODUCTS TAX RATE	2024 Regular
SB 90	FIREARM & AMMO TAX ACT	2024 Regular
SB 99	REMOVE INCREMENTAL CANNABIS TAX	2024 Regular
SB 105	REPEAL TAXES	2024 Regular
SB 202	GENERAL APPROPRIATION ACT OF 2024	2024 Regular

TECHNICAL ISSUES

Reviewer is not sure whether this bill is germane. Though it was introduced last session, it was not passed and vetoed. There are cannabis-related funds appropriated in the general appropriation bill, but none appear to be directly related to this criminal statute. Finally, the governor has at this time issued 85 special messages to the two houses of the legislature, which are not searchable on the governor's website, so reviewer is not sure whether this bill is included.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.