

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS  
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

**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>		<b>Date</b>
	<b>Amendmen</b>	<b>Prepared:</b> 01/27/24
<b>Original</b>	<input checked="" type="checkbox"/> <b>t</b>	<b>Bill No:</b> SB195
<b>Correction</b>	<input type="checkbox"/> <b>Substitute</b>	
<b>Sponsor</b>	Sen. G. Munoz & Sen. M. Padilla	<b>Agency Name and Code Number:</b> 305 – New Mexico Department of Justice
<b>Short Title:</b>	FELONY ENTERING RETAIL ESTABLISHMENTS	<b>Person Writing Analysis:</b> Sean Sullivan, AAG
		<b>Phone Email:</b>

**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)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB195 proposes to amend the existing burglary statute, NMSA 1978 Section 30-16-3, to add a provision specific to burglaries in retail establishments. It proposes that anyone who enters a retail establishment having previously received notice that the person is not authorized to enter that establishment, with the intent to commit a theft or felony therein, would be guilty of a 4<sup>th</sup> degree felony.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

This legislation purports to capture those instances of persons entering retail establishments when they've received notice that they are unable to enter the establishment – also known as a 'no trespass order.' However, an interpretation of the unauthorized entry requirement currently present in the statute may already capture such an instance.

Note that if the proposed statute intended to create an additional felony provision of entering an establishment after having been issued a criminal no-trespass order, that would serve as an abrogation of State v. Archuleta, 2015-NMCA-037. As written, however, the added provision still requires an 'intent to commit any theft or felony therein.'

**PERFORMANCE IMPLICATIONS**

The New Mexico Department of Justice would potentially be able to exercise jurisdiction to prosecute violations of this statute.

**ADMINISTRATIVE IMPLICATIONS**

N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

## **TECHNICAL ISSUES**

While it is likely that ‘retail establishment’ is to be given its ordinary meaning, a definition may be useful. For example, see the definition of ‘retailer’ under NMSA 1978 Section 30-16-20.1(D)(2):

- “Retailer” means a person or business that sells or facilitates the sale of merchandise to the public for use or consumption rather than for resale.

## **OTHER SUBSTANTIVE ISSUES**

N/A

## **ALTERNATIVES**

N/A

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

N/A