

<b>LFC Requester:</b>	<b>Anderson, Ginger</b>
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**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}*

Check all that apply:  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 2/1/24  
**Bill No:** SB 274

**Sponsor:** Sen. Katy M. Duhigg  
**Short**    Cannabis Compliance Bureau  
**Title:**    \_\_\_\_\_

**Agency Name and Code**    AOC 218  
**Number:** \_\_\_\_\_  
**Person Writing**    Kathleen Sabo  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	\$325.00	Nonrec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(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>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

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

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB 274 enacts a new statutory section within the Regulation and Licensing Department Act, Section 9-16-1 NMSA 1978, et. seq., to create the Compliance Bureau (hereinafter “bureau”) in the Office of the Superintendent of Regulation and Licensing (hereinafter “superintendent”) to investigate and enforce laws and rules of the Cannabis Control Division (hereinafter “division”).

SB 274 provides that a compliance inspector has the same power as other law enforcement officers, including the power to undertake a lawful warrantless search and seizure and the power to arrest someone for trafficking illegal cannabis.

SB 274 requires the bureau to investigate alleged or suspected violations of the Cannabis Regulation Act (CRA) as directed by the Cannabis Control Division or the superintendent and permits the bureau to investigate on its own initiative and report its findings to the division and superintendent.

SB 274 also enacts a new section of the Cannabis Regulation Act to permit the division to carry out announced or unannounced inspections and to respond to tips or allegations of wrongdoing or initiate an investigation on the division’s own initiative of an alleged or suspected violation of the CRA. Under SB 274, the division is required to refer possible criminal violations to the bureau and to assist the bureau in the investigation and carrying out of inspections. The division also may issue an administrative hold on the movement of cannabis products that are or are suspected of being adulterated or dangerously or fraudulently misbranded.

SB 274 requires the bureau to investigate cases referred to it by the division or superintendent or on the bureau’s own initiative and may:

- (1) Embargo or seize a cannabis product alleged or suspected of being an illegal cannabis product or, on the determination of the division, a cannabis product that is adulterated or so misbranded as to be dangerous or fraudulent and may seize the premises where the cannabis product is produced, manufactured or stored as provided in a warrant; and
- (2) Petition the district court for injunctive or equitable relief.

The division is required to give sufficient notice to the licensee of a hold on products, which

shall not be in place for longer than necessary to complete the division's or the compliance bureau's investigation Under SB 274, when the bureau embargoes or seizes a cannabis product or a premises, the bureau is required to give written notice to the licensee of the grounds for the seizure. A licensee aggrieved by an embargo or seizure may request an administrative hearing within 10 calendar days from the date the embargo was issued or the seizure was executed, which is required to be held before a hearing officer as provided by rule. SB 274 provides that the final agency decision may be appealed pursuant to Section 39-3-1.1 NMSA 1978, permitting appeal to the district court.

SB 274 provides that when a determination is made that an embargoed or seized cannabis product is illegal, adulterated or dangerously or fraudulently misbranded, the division is required to petition the district court for condemnation of the cannabis product. If the district court orders condemnation, the bureau shall destroy the cannabis product at the licensee's expense.

Under SB 274, a person who intentionally, knowingly or recklessly removes, conceals, destroys or disposes of a cannabis product subject to an administrative hold or embargo is guilty of a fourth degree felony. In addition to the actions provided, after an administrative hearing pursuant to the Uniform Licensing Act, the division may take disciplinary action against a licensee, including:

- (1) Suspension or revocation of the license;
- (2) Imposition of an administrative penalty not to exceed \$10,000; or
- (3) Any other disciplinary action allowed under that Act or rule of the division.

SB 274 appropriates \$325,000 from the General Fund to the Regulation and Licensing Department (RLD) for expenditure in FY 2025 to create the bureau in the Office of the Superintendent of Regulation and Licensing. Any unexpended or unencumbered balance remaining at the end of FY 2025 shall revert to the General Fund.

## **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions, as well as petitions for injunctive and equitable relief and for condemnation, and appeals from final agency decisions under both the CRA and the Uniform Licensing Act. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## **SIGNIFICANT ISSUES**

- 1) Permitting seizure or embargo or destruction of illegal cannabis will keep illegal products from finding their way into the black market. See *New Mexico lawmakers look to tighten up laws surrounding cannabis*, Natalie Wadas, January 15, 2024, KRQE News at <https://www.krqe.com/news/new-mexico-lawmakers-look-to-tighten-up-laws-surrounding-cannabis/>.
- 2) SB 274 permits a final agency decision by the division to be appealed to the district court, pursuant to Section 39-3-1.1 NMSA 1978. Additionally, SB 274 permits disciplinary action against a licensee, pursuant to the Uniform Licensing Act, which, under Section 61-1-17 NMSA 1978, also permits appeal pursuant to Section 39-3-1.1 NMSA 1978.

**PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

**ADMINISTRATIVE IMPLICATIONS**

See “Fiscal Implications,” above.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

**TECHNICAL ISSUES****OTHER SUBSTANTIVE ISSUES****ALTERNATIVES****WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL****AMENDMENTS**