

LFC Requester:

Carlie Malone

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.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}*

**Date Prepared** 1/28/26

*Check all that apply:*

**Bill Number:** SB129

Original  Correction

Amendment  Substitute

**Agency Name**

**and Code**

Dept. of Workforce Solutions-631

**Number:**

**Sponsor:** Heather Berghmans

**Person Writing**

Sarita Nair

**Short** Adverse Employment Action &

**Phone:** 505-263-3187

**Email** Evan.Sanchez@dws.nm.gov

**Title:** Cannabis

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
0	0		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
0	0	0		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0	\$0	\$0	\$0		

(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**

This bill provides additional protection for certain employees using cannabis under the Lynn and Erin Compassionate Use Act (the “Act”).

#### Synopsis:

Currently, under NMSA 26-2B-9, employers may not take any adverse employment act against an employee who is a qualified patient of the Lynn and Erin Compassionate Use Act, unless a failure to do so would cause the employer to lose a monetary or licensing-related benefit under federal law or federal regulations. Exceptions currently exist to allow adverse employment action if (1) an employee uses or is impaired by medical cannabis on the premises of the place of employment or during the hours of employment; or (2) the employee works in a safety-sensitive position. The Act defines "safety-sensitive position" as “a position in which performance by a person under the influence of drugs or alcohol would constitute an immediate or direct threat of injury or death to that person or another.”

SB 129 expands this to provide that public entities may not control medical cannabis use outside the employee’s hours of employment unless otherwise limited by law.

#### **FISCAL IMPLICATIONS**

DWS does not currently play a role in enforcement or regulations pursuant to the Act. The Act does not provide a remedy for employees who experience a prohibited employment action under the Act. That said, protections under the New Mexico Human Rights Act may be available if an employee feels that an adverse action related to the Act constitutes discrimination, for example, on the basis of a serious medical condition or physical or mental disability.

#### **SIGNIFICANT ISSUES**

None.

#### **PERFORMANCE IMPLICATIONS**

None.

#### **ADMINISTRATIVE IMPLICATIONS**

None.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

**TECHNICAL ISSUES**

None.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

None.

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

Safety-sensitive employees and employees subject to random drug tests that include marijuana, and who are qualified patients of the Lynn and Erin Compassionate Use Act, may experience adverse employment action for testing positive due to their use of medical cannabis outside of work.

**AMENDMENTS**

None.