

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://agencyanalysis.nmlegis.gov) and email to 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: February 26, 2025 *Check all that apply:*
 HCEDC Sub for Original ___ Correction ___
Bill Number: HB 112
 Amendment ___ Substitute _x

Sponsor: Tara L. Lujan
Short Title: Cannabis Licensure Changes

Agency Name and Code Number: Regulation and Licensing Department - 420
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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(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

HCEDC Sub. For HB 112

The substitute bill changes the original bill in the following ways:

Section 2:

- Changes the definition of “applicant” from “a person seeking licensure” in the original HB 112 to “an applicant seeking licensure pursuant to the Cannabis Regulation Act.”
- Changes the definition of “controlling person” to mean “a *human* person that controls a financial or voting interest of ten percent or more of, or an officer or board member of, *an applicant or* a cannabis establishment,” (additions in italics).

Section 3.1:

- Removes definitions of “director”, “member and manager”, “officer” and “partner.”
- Replaces “applicant” with “all controlling persons of an applicant” in the proposed language in which the criminal history record is considered.
- Replaces “applicant” with “all controlling persons of an applicant” in the proposed language in which a state and federal background check is conducted.

Section 7:

- Replaces the demonstration of a legal right to a commercial water supply by all cannabis business applicants with a requirement that this be demonstrated by applicants for any type of cannabis producer or cannabis producer microbusiness (effectively going back to the current law on this issue).
- Reintroduces as a condition of licensing the requirement for a cannabis manufacturer to submit a plan to use, or demonstrate the infeasibility of using, energy or water reduction opportunities (effectively, again, going back to the current law on this issue).

Original HB 112

The bill amends the Cannabis Regulation Act (CRA) in the following ways:

Section 2: Adds definitions for “applicant” and “licensee.”

Section 3: Directs the Cannabis Control Division (CCD) of the Regulation and Licensing Department (RLD) to receive and maintain information and data from federal and state law enforcement relating to license disqualifications based on criminal history.

Section 3.1: Provides the CCD access to criminal history records information provided by the Department of Public Service (DPS) and the Federal Bureau of Investigation (FBI), subject to federal restrictions, in order to investigate the suitability of an applicant for the medical cannabis program or commercial cannabis activity. Should the CCD consider an applicant’s criminal history record, it shall also consider information provided by the applicant about that record, including evidence of rehabilitation, character references, and educational achievements.

Applicants for a license to conduct commercial cannabis activity shall undergo a state and

federal criminal history check and shall submit an electronic set of fingerprints to DPS for that purpose. DPS shall conduct a check of state records and shall forward the prints to the FBI for a national criminal history records check. DPS may acquire a name-based background history for an applicant or licensee who has twice submitted to a print-based criminal history record check and whose prints are unclassifiable. DPS shall review the records check information and shall compile it and provide it to the CCD, which shall use the information to investigate and determine whether an applicant is qualified to hold a cannabis license.

Criminal history information received from DPS or the FBI that is not already a matter of public record shall be confidential, restricted to the exclusive use of the CCD for evaluating an applicant's eligibility for licensure, shall not be considered a public record under IPRA, and shall not be disclosed to anyone except those public employees involved in the decision-making regarding an applicant's eligibility.

The CCD and DPS are directed to adopt rules carrying out the provisions of this section; previous language regarding rulemaking for obtaining and using criminal background check information is replaced.

Section 7: The water rights and energy and water reduction plans that were previously required of cannabis producers are expanded to all license applicants. Applications are to be signed by the applicant or corporate officer or other person with legal authority to sign for the applicant.

FISCAL IMPLICATIONS

HCEDC Sub. For HB 112

The fiscal implications will be unchanged by the substitute bill.

Original HB 112

The RLD anticipates that the CCD will be able to absorb the additional administrative tasks necessary to process and evaluate the federal criminal history background check records sought under HB112 within the CCD's existing staffing resources.

SIGNIFICANT ISSUES

The RLD is hopeful that the changes made in the Substitute bill will resolve any final issues regarding the ability to obtain approval from the FBI for access to fingerprint-based federal criminal history background check information through the FBI's databases.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

HCEDC Sub. For HB 112

The administrative implications will be unchanged by the substitute bill.

Original HB 112

If HB112 is enacted the CCD will be required to conduct an administrative rulemaking process

to address the changes to existing statutes in the CRA and create necessary records handling and evaluation guidelines.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HCEDC Sub. For HB 112

The consequences of not enacting the substitute bill will be the same as those for not enacting the original bill.

Original HB 112

The CCD will continue to be unable to access federal criminal history background check information through the FBI's databases.

AMENDMENTS