

LFC Requester:

Noah Montano

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
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**SECTION I: GENERAL INFORMATION**

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

Date Prepared: 26 FEB 2025

Check all that apply:

Bill Number: HB112sOriginal ☐ Correction ☐Amendment ☐ Substitute ☒Sponsor: Tara L. LujanShort Title: Cannabis Licensure Changes

Title:

Agency Name  
and Code

790 – Department of Public Safety

Number:

Person Writing

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Emmanuel.gutierrez@dps.i**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

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

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	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
<b>Total</b>	NFI	NFI	NFI	NFI	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**

House Bill 112 Substitute (HB112s) requires all controlling persons of an applicant seeking licensure under the Cannabis Regulation Act to undergo a state and federal criminal history records check and to submit fingerprints to the Department of Public Safety. This bill establishes revised procedures for the Cannabis Control Division (CCD) to perform criminal background checks. Also, it requires that an application for licensure be signed by the applicant or an appropriate corporate officer.

## **FISCAL IMPLICATIONS**

HB112 will have fiscal impacts related to increased administrative costs for processing criminal background checks through the Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI). The Cannabis Control Division may require additional funding for technology upgrades, compliance monitoring, and staff training to implement the new provisions. There is a cost for every national fingerprint-based background check.

If RLD is approved for an Originating Agency Identifier (ORI), the Department of Public Safety (DPS) will need to hire two (2) additional Automated Fingerprint Technician in the Automated Fingerprint Identification Unit to manage the increased workload from processing fingerprints across the state.

Currently, two employees process fingerprints for NMDPS. In 2024 they handled about 200,000 fingerprint submissions, averaging 396 quality assurance checks on submission each per day. Adding new ORIs, including civil agencies like the Regulation and Licensing Department (RLD), will increase the volume of work to this already overstretched unit. Increased submissions will lead to longer processing times and delays in providing results, potentially compromising efficiency and regulatory compliance.

As of December 2024, New Mexico has 1,006 licensed cannabis dispensaries, representing a 43.7 percent growth from 700 dispensaries in 2022. In 2022, there were 4,666 individuals employed in dispensaries statewide. With dispensary growth comes a proportional increase in employee background checks, significantly adding to the unit's responsibilities.

## **SIGNIFICANT ISSUES**

HB112 strengthens public safety by mandating rigorous fingerprint based criminal background checks for applicants and key personnel, ensuring that only qualified individuals operate in the cannabis industry.

The bill aligns with federal standards under 28 CFR Part 20, which governs criminal justice information systems and restricts access to non-public criminal history data. CCD will require an Originating Agency Identifier (ORI), a unique identifier assigned by the Federal Bureau of Investigations (FBI) to agencies authorized to access criminal justice information. ORIs are used to track and route requests for background checks, criminal history records, and other law enforcement data within systems like the National Crime Information Center (NCIC).

To obtain an ORI, CCD must comply with Public Law 92-544, which establishes strict guidelines for the use and dissemination of criminal history information. This law ensures that only agencies with a legitimate governmental function—such as law enforcement, licensing boards, and other regulatory bodies—can access sensitive criminal records. Compliance typically requires state legislation or executive order affirming the agency's authority to conduct background checks for specific purposes, ensuring adherence to privacy and security regulations.

Once legislation is approved, it must be reviewed by the FBI's Criminal Justice Information Law Unit (CJILU) to ensure compliance with federal law and regulations. CJILU evaluates whether the law aligns with Public Law 92-544 and meets the requirements for access to criminal justice information. If the legislation is deemed compliant, CJILU will authorize the issuance of an Originating Agency Identifier (ORI). Due to the thorough

review process and federal oversight, obtaining an ORI can take more than 365 days before final approval and issuance.

If at any point the law governs the approved ORI changes, it is the responsibility of the agency to notify DPS and the FBI, along with introducing new legislation authorizing changes.

However, concerns arise over how past convictions will be evaluated, particularly regarding non-violent cannabis-related offenses that may no longer be criminal under New Mexico law. CCD must establish clear guidelines to prevent arbitrary or overly restrictive licensing decisions. Additionally, confidentiality requirements for background check data may conflict with public transparency laws, requiring careful balancing between privacy and accountability.

The bill broadens the rules that DPS adopts to now say “to carry out the provisions of this section” in Section 3 E. The existing statute lists what procedures are to be followed by rules DPS adopts. The bill deletes all that language and puts most of it directly onto the statute in paragraph C and additional related information is added in paragraph B concerning DPS “having access to criminal history records information furnished by the department of public safety and the federal bureau of investigation, subject to any restrictions imposed by federal law” to implement the required criminal background checks.

## **PERFORMANCE IMPLICATIONS**

The primary impact includes strengthening the regulatory framework around cannabis operations to ensure accountability and public safety. Additionally, it supports promoting equitable representation and participation within the cannabis industry, targeting underserved communities. The bill includes measures for environmental and product safety, along with provisions to prevent illegal cannabis production and distribution. For public safety and law enforcement, the bill necessitates coordination with the Department of Public Safety to enforce licensing compliance, conduct background checks, and regulate the legal cannabis market. Law enforcement may play a more prominent role in addressing violations under the revised cannabis regulatory framework.

HB112s enhances the ability of **CCD** to assess applicant suitability while aligning New Mexico’s licensing process with best practices in other regulated industries. By ensuring access to accurate criminal history records, CCD can make informed decisions, reducing the risk of illicit activity within the industry.

HB112s strengthens cannabis licensure requirements by mandating state and federal criminal history background checks and revising procedures for evaluating applicants. The requirement for fingerprint-based checks is critical. A fingerprint-based background check using Criminal Justice Information (CJI) and the Next Generation Identification (NGI) system ensures accurate identity verification, enhances public safety, prevents fraud, and enables thorough vetting of applicants by accessing state and federal CJI records for licensing decisions.

The bill ensures confidentiality of criminal records, requiring DPS to process New Mexico name-based and national fingerprint-based background checks and CCD to review and analyze the results of the criminal justice information (CJI) they receive to determine the individual’s eligibility. The CCD is also tasked with considering rehabilitation factors.

## **ADMINISTRATIVE IMPLICATIONS**

The CCD must adopt new administrative rules for background check processing, data retention, and licensing determinations as authorized by the new law. The CCD, once approved for an ORI, will need to work with the authorized fingerprint vendor identified by DPS to establish and ensure that fingerprinting systems are transmitting data to DPS and the FBI. Name-based background checks are a separate process and handled by the Law Enforcement Records Bureau (LERB) Customer Engagement Team. The CCD may require additional staff, who are fingerprint background checked, or other resources to manage the increased volume of background checks and appeals related to disqualifications.

The bill increases the administrative responsibilities of the Cannabis Control Division, which will need to process fingerprints, review criminal history records, and enforce compliance with new rules in accordance with the latest FBI's CJIS Security Policy and The National Crime Prevention and Privacy Compact Act of 1998. Additional collaboration with DPS, FBI, and other regulatory bodies will be required.

The bill places new responsibilities on DPS and CCD, requiring them to conduct fingerprint-based background checks, develop rules for compliance, and maintain criminal history records. Additionally, the substitute bill requires that DPS and CC conduct fingerprint-based background checks on all controlling persons of an applicant, not just the applicants as required by the previous version of the bill introduced this session.

The Cannabis Control Division (CCD) will need enhanced data management systems to track and store disqualification records while ensuring compliance with Department of Public Safety (DPS) and Federal Bureau of Investigation (FBI) audits. CCD must be prepared for regular audits to verify complete and accurate record-keeping, ensure data integrity, and maintain strict confidentiality in handling Criminal Justice Information (CJI). Robust security measures will be essential to protect sensitive data from unauthorized access, breaches, or misuse, ensuring adherence to state and federal regulations governing criminal history records and background check processes.

The Department of Public Safety (DPS) has a protocol for unclassified fingerprints by conducting a federal name-based background check when fingerprints remain unclassifiable after multiple attempts. An unclassified fingerprint is one that cannot be processed or matched due to poor quality, smudging, distortion, low ridge detail, or incomplete capture, making it unreadable by automated fingerprint identification systems like the FBI's Next Generation Identification (NGI) system. DPS will implement alternative identification methods, allowing background checks to proceed even when fingerprint submissions are unsuitable for processing.

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

HB112 complements the existing Cannabis Regulation Act by enhancing oversight mechanisms and aligns with the Lynn and Erin Compassionate Use Act. No direct conflicts have been identified.

### **TECHNICAL ISSUES**

The DPS LERB, as the designated CJIS Systems Agency (CSA), is the liaison to the FBI. The CCD will need to

comply with all current FBI CJIS Security Policies, FBI Compact Council requirements, and must be responsive and adherent to DPS and FBI audits, and federal laws.

The definition of “controlling person” in the bill may require further clarification to ensure consistent application of licensing criteria. Additionally, safeguarding the confidentiality of criminal background check data will necessitate robust Information Technology (IT) systems and procedural safeguards to prevent unauthorized disclosures.

#### **OTHER SUBSTANTIVE ISSUES**

No other substantive issues to DPS.

#### **ALTERNATIVES**

None at this time.

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

Status Quo will remain.

#### **AMENDMENTS**

None at this time.