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FISCAL IMPACT REPORT

Martinez, J/
 Maestas/Ely/
SPONSOR Armstrong, D/Rubio **ORIGINAL DATE** 2/08/19
LAST UPDATED 2/22/19 **HB** 356

SHORT TITLE Cannabis Regulation Act **SB** _____

ANALYST Daly

REVENUES (dollars in thousands)*

Estimated Revenue					Recurring or Nonrecurring	Fund(s) Affected
FY2019	FY2020	FY2021	FY2022	FY2023		
--	\$900.0	\$3,100.0	\$4,500.0	\$5,100.0	Recurring	Community Grants Reinvestment Fund
--	\$300.0	\$90.0	\$1,300.0	\$1,500.0	Recurring	Cannabis Health and Safety Fund
--	\$100.0	\$300.0	\$400.0	\$500.0	Recurring	Cannabis Research Fund
--	\$300.0	\$900.0	\$1,300.0	\$1,500.0	Recurring	Local DWI Grant Fund
--	\$1,800.0	\$13,700.0	\$21,600.0	\$24,800.0	Recurring	General Fund
--	\$100.0	\$300.0	\$400.0	\$500.0	Recurring	TRD operating funds
--	\$3,500	\$19,200.0	\$29,500.0	\$33,900.0	Recurring	TOTAL State funds
--	\$2,100.0 (max)	\$12,400.0 (max)	\$19,200.0 (max)	\$22,100.0 (max)	Recurring	Municipalities & Counties
		(\$150.0)	(\$150.0)	(\$150.0)	Recurring	General Fund (NMED)

(Parentheses () indicate Revenue Decreases).

*Estimated revenue as projected by Taxation and Revenue Department. See Fiscal Implications

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$15.0	\$6,555.0	\$10.0	\$6,580.0	Nonrecurring	TRD Operating Funds
	\$110.0	\$455.0	\$1,260.0	\$1,825.0	Recurring	TRD Operating Funds
		\$7,000.0	\$7,000.0	\$14,000.0	Recurring	Cannabis Regulation Fund/General Fund (RLD)
		Unknown	Unknown	Unknown	Recurring	Cannabis Regulation Fund/General Fund (DOH)
		\$1,000.0	\$1,000.0	\$2,000.0	Recurring	General Fund (AOC)
		\$150.0	\$150.0	\$300.0	Recurring	General Fund (NMSU/NMDA)
		\$430.0	\$740.0	\$1,170.0	Recurring	General Fund (NMED)
	\$401.8	Unknown	Unknown	>\$401.8	Recurring	General Fund (DPS)
		\$222.7	\$217.5	\$440.2	Recurring	General Fund (AHO)

(Parenthesis () Indicate Expenditure Decreases)

Related to SB 323 and SB 408

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation & Licensing Department (RLD)
Administrative Hearings Office (AHO)
Administrative Office of the Courts (AOC)
Department of Finance & Administration (DFA)
Department of Health (DOH)
Department of Public Safety (DPS)
Economic Development Department (EDD)
Human Services Department (HSD)
Law Offices of the Public Defender (LOPD)
Medical Board (MB)
New Mexico Attorney General (NMAG)
New Mexico Department of Agriculture (NMDA)
New Mexico Department of Environment (NMED)
New Mexico Department of Transportation (NMDOT)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 356 enacts the Cannabis Regulation Act (CRA), which contains a comprehensive plan for regulation and licensing of cannabis production and distribution, and sale and consumption to and by persons over the age of 21. It creates a new Division of Cannabis Control in RLD, which is charged with promulgating rules and policies related to licensing (beginning with currently licensed medical cannabis businesses by Jan. 1, 2020) and regulating the activities authorized by the Act.

HB 356 also enacts the Cannabis Tax Act, which imposes a cannabis excise tax of nine percent applied to the price paid for cannabis. That tax does not apply to retail sales of medical cannabis pursuant to LECUA. It also allows for the adoption of ordinances by both municipalities and counties of an excise tax on cannabis of no more than three percent, which may be imposed in any number of one-sixteenth percent increments applied to the price of cannabis product.

Revenues from the excise tax is distributed as follows:

- Six percent to the cannabis health and safety fund, a new fund created to support qualified patients participating in the medical cannabis program pursuant to LECUA and to fund development and execution of a comprehensive and sustained public education campaign, based on the principle of harm reduction, to promote road safety, discourage DWI, promote abstinence for persons under 21, and encourage responsible use by adults;
- Two percent to the cannabis research fund, a new fund created to fund research related to medical and recreational cannabis use and substance use disorder treatment at the University of New Mexico Health Sciences Center;
- Six percent to the local DWI grant fund, as amended in Section 60, to fund research, best

practices in law enforcement and Drug Recognition expert (DRE) field test certification training for law enforcement officers and to purchase roadside impairment tests; and

- Twenty percent to the community grants reinvestment fund, a new fund administered by DOH for the purpose of reinvesting in communities disproportionately affected by past federal and state drug polices, including supporting job placement, mental health treatment, and substance use disorder treatment.

The balance of this tax revenue is distributed to the general fund.

HB 356 also amends existing law governing medical use of cannabis under the Lynn and Erin Compassionate Use Act (LECUA), provides opt-out provisions by local governments for certain activities authorized under CRA, and amends or repeals criminal laws governing cannabis offenses.

The effective date of HB 356 is July 1, 2019.

FISCAL IMPLICATIONS

Continuing Appropriations

In Section 41, this bill creates the new Cannabis Regulation Fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

Revenues

TRD provides this explanation of the methodology it employed in developing the estimated revenue shown in the table above:

TRD assumed no revenue from retail sales before January 1, 2020, as Section 8(A) of the bill does not require licenses to be issued before then. With Colorado having allowed recreational cannabis sales for several years, New Mexico would be in a similar situation that Oregon (vis-à-vis Washington) was in at the beginning of 2016. As in this bill, Oregon likewise allowed about a year of sales via medical cannabis dispensaries before issuing licenses to non-medical outlets. Utilizing published tax receipts from Oregon for the first three years of that state's program, TRD extrapolated a retail sales base for each of the years, adjusting for differences in population between Oregon and New Mexico. This base was multiplied by the state retail cannabis tax rate to produce the retail revenue estimate. The percentages specified in the bill for the new cannabis-related funds and the DWI fund were then applied. As with other tax programs, any remaining money is distributed to the general fund.

The bill also allows for municipalities and counties to put in place their own retail tax rates, up to 3 percent each. These were estimated at the maximum possible, assuming each local authority imposed the maximum rate. Three percent of this amount would flow to TRD to administer the program.

Gross receipts tax would also apply to retail cannabis purchases. However, the bill

removes gross receipts tax from medical cannabis purchases by expanding the existing gross receipts tax deduction for prescription drugs to include medical cannabis. TRD used quarterly data from the New Mexico Department of Health on receipts by licensed medical marijuana non-profit producers over the last several years to estimate the future number of ounces distributed in the medical marijuana market. Although the medical marijuana industry initially grew rapidly in recent years, it appears that growth is now moderating. The addition of a retail market should further moderate growth. This loss of GRT base for medical cannabis was multiplied by the average state and local GRT percentages to determine effects. Assuming cannabis is not a replacement for other goods, the net effect is an increase in gross receipts tax, except for the first year because the medical cannabis deduction would apply for the entire year, while the new retail revenue would only apply for half of the year.

TRD has not estimated possible secondary positive or negative financial impacts that could occur as a result of New Mexico allowing recreational cannabis.

Additionally, NMED calls attention to Section 7(A)(3), which caps any civil monetary penalty for violation of the CRA, apparently including violations of occupational health and safety rules, at \$1,000. Under current law, these violations carry maximum penalties of \$12,941 for a serious violation and ten times that (\$129,412) for a willful violation. Based on a historical analysis of penalties issued to employers in the medical cannabis industry under existing law, NMED reports that this reduction in maximum penalties will result in an estimated revenue loss to the general fund of approximately \$150 thousand per year, as reflected in the revenue table above.

DOH reports that when other states have implemented recreational cannabis program, their medical cannabis programs have increased enrollments, which then levels out after a few years. It is unclear whether any such temporary increase is included in TRD's estimates.

Operating Budget Impacts

TRD's estimated budget impact is shown in the table above. It comments that enacting an entirely new tax program has a high impact on several divisions within TRD. The Revenue Processing Division (RPD) would need to develop new forms, instructions, procedures, publications and educational materials. It would also need to add 10 FTE to record, process and correct statements, apply payments and manage correspondence. The Information Technology Division will incur contract costs of \$5.8 million and soft costs of \$730 thousand to implement the taxation portions of the bill. After implementation, three FTEs will be required for ongoing operations and support. The Audit and Compliance Division will also be impacted, needing to have new auditors and a new collector for the program.

RLD estimates that to license and regulate the new cannabis activity, including compliance duties, management, inspection and investigative and enforcement activities under the CRA will require at least 55 FTEs. There will be a need for three additional attorneys on staff at RLD to design a comprehensive regulatory framework, draft rules and regulations as required and hold rule-making and administrative citation hearings. There will likely be a need for financial auditors and/or forensic accountants. RLD projects a \$7 million cost per year, as reflected in the budget impact table above. Although Section 41 appropriates money in the Cannabis Regulation Fund to RLD to support its duties under the CRA, since a major component of funding comes from licensing fees, the fund may not be sufficient to cover RLD's start-up and continuing costs in the first years.

AOC estimates that the destruction of arrest and conviction records required in Sections 37 and 38, along with the recall or dismissal of sentences required in Section 39 will result in costs of approximately \$1 million a year, which figure appears in the budget impact table above.

NMDA advises it could see a substantial increase in scale numbers and scale inspections. Other states that have adopted recreational cannabis have seen substantial increases in their scale inspection activity. For example, the state of Oregon had a 20 percent increase just in its cannabis scale inspection numbers. Based on this trend New Mexico can expect the same type of increase. Currently we inspect approximately 5,000 small capacity scales a year. A 20 percent increase would equate to approximately 1,000 more scale inspections. This increase would require 2 additional FTE's for an estimated total cost of \$150.0 thousand, including salary, fringe benefits, travel and per diem. That figure is reflected in the operating budget impact table above, as no revenue is generated by these inspections.

DPS' estimated costs include the cost of replacing narcotics detection canines (\$90,000 purchase price), additional training in the Advanced Roadside Impaired Driving Enforcement (ARIDE) program to address the specifics of investigating marijuana-related DWIs (at \$41,800), and black market and underage sales enforcement (\$150,000). DFA suggests at least some if not all of these costs are currently funded with federal funds. However, the adoption of this bill may adversely impact continuing receipt of those funds, so DPS cost figures have been included in the budget impact table.

NMAG and EDD report no fiscal impact to the State. Similarly, HSD reports no fiscal impact on the Medicaid program, since it cannot pay for medical cannabis because it has not been approved as a safe and effective medical treatment by the Federal Drug Administration.

AHO anticipates an increase in the number of tax protests given the new excise tax, as well as those under the Implied Consent Act due to increased DWI arrests upon the decriminalization of marijuana. The number appearing in the operating budget table above reflects AHO's estimated costs for the two additional full-time hearing officers it believes will be needed to handle this increased work load.

DOH notes it is required to continue operating the patient services of the Medical Cannabis Program, receiving and approving applications for enrollment and maintaining the Registry of patients for the Program. While Section 10 requires RLD to calculate licensing fees in an amount sufficient to include administering the registry, and Section 41 appropriates money in the cannabis regulation fund to RLD to support the medical cannabis program, it is unclear if RLD's estimated costs include DOH's costs relating to medical cannabis. DOH has not provided any estimate of those costs, which appear in the operating budget table as "unknown".

NMED asserts that its Environmental Health Bureau will require at least five FTEs to review and enforce CRA's packaging and labelling requirements. The fiscal impact for FY20 will be approximately \$430 thousand, which includes salaries, benefits and operational costs. FY21 and subsequent years will require more inspections and enforcement activities, requiring yet another five FTEs, which results in approximate costs of \$740 thousand per fiscal year. Those estimates are reflected in the operating budget impact table.

LOPD, on the other hand, reports that overall, positive fiscal implications due to HB 356. It notes a likely long-term reduction in cases resulting in a lighter workload for all justice systems

agencies.

SIGNIFICANT ISSUES

HB 356 imposes a cannabis tax and has significant revenue implications as noted in the table and should be referred to the House Taxation and Revenue Committee.

Conflict with Federal Law. NMAG first warns that HB 356 conflicts with federal drug law. It advises the federal government regulates marijuana through the Controlled Substances Act, 21 U.S.C. § 811 *et seq.* Under current federal law, marijuana is treated like every other controlled substance, such as cocaine and heroin. The federal government places every controlled substance in a schedule, in principle according to the relative potential for abuse and medicinal value of that controlled substance. Under the Controlled Substances Act, marijuana is classified as a Schedule I drug, which means that the federal government views marijuana as highly addictive and having no medical value.

In addition, NMAG advises federal law criminalizes a number of activities that would be permitted under New Mexico law pursuant to HB 356. For example, it prohibits the distribution, possession with intent to distribute and manufacture of marijuana or its derivatives (21 U.S.C. §§ 841, 960, 962); simple possession of marijuana (21 U.S.C. § 844); and establishing manufacturing operations, i.e. opening, maintaining, financing or making available a place for unlawful manufacture, distribution or use of controlled substances (21 U.S.C. § 856).

NMDOT notes another ramification of this conflict that may be remote but should be recognized. As NMDOT is the recipient of federal aid funds, its cabinet secretary is required to assure, on behalf of federal aid fund grant applicant, that the state and grant applicants will comply with all applicable federal laws, regulations and requirements in implementing grant awards. Since production, distribution, sale and consumption of cannabis are currently illegal under federal law pursuant to the Controlled Substances Act, there exists a remote possibility that federal aid funds could be revoked if federal authorities choose to enforce the Controlled Substances Act against the state should HB 356 become law.

Revenue Adequacy. TRD reports that by developing a comprehensive system for regulating the production and sale of cannabis, the bill adheres to the tax policy principle of revenue adequacy. It does so by bringing an underground economy that exists in New Mexico into a legalized tax structure. In four and one-half years of retail operation, Colorado has realized over \$600 million in total revenue from retail cannabis. Growth has been moderating in recent years, and was most recently about 10 percent.

Implementation and Enforcement. As the major regulatory agency charged with implementing and administering the activities authorized in this bill, RLD raises a number of concerns. Absent an appropriation for start-up costs, dependence on licensing fees alone to fund operations may result in a gap in funding until fee collecting begin, or while waiting for the next cycle of fees. Further, RLD asserts the one year timeframe in which to promulgate rules under this Act is insufficient; the collaboration required by the different agencies to determine what rules are necessary as well as the hearing and publication requirements to enact rules will take more than one year.

Based on its experience regulating alcohol, RLD points out several provisions that are inconsistent with existing controls on alcohol sales. First, HB 356 allows for the delivery of

cannabis and cannabis products to the consumer. However, liquor establishments are not permitted to deliver alcohol except for wineries shipping no more than two cases of wine per month via a registered common carrier. Nor does the bill effectively establish separate industry tiers. As with alcohol, establishing the separation of manufacturers and retailers ensures economic diversity, provides natural price floors, and avoids monopolization. HB 356 only creates a barrier between testing laboratories and the rest of the industry. See Section 6(J) (page 21). Even within this narrow prohibition, the bill fails to prohibit such cross-ownership with sufficient specificity with respect to individual ownership or controlling interests. Nor does the bill provide for any enforcement powers in district court, or any investigative ability. At a minimum, RLD believes there should be an investigative/adjudicative framework with an appropriate law enforcement agency, similar to the relationship between the Alcohol and Gaming Division and the Special Investigations Division of the Department of Public Safety. Further, the bill does not address dual licensure of alcohol and cannabis.

Additionally, MB comments that the provisions in Section 23 exempting doctors (and other licensed professionals) from disciplinary action by a licensing board because they provide services to patients or others for activities in compliance with the CRA is too broad. Medical professionals are always held to a “standard of care” in the treatment of patients, but this section appears to suggest they would be immune from disciplinary action even if they fail to satisfy this standard when treating such a patient.

DOH notes the grandfather provisions for currently licensed persons engaged in medical cannabis activities, which require RLD issue temporary licenses by January 1, 2020 (See Section 8(A)). It advises that medical cannabis producers’ licenses expire August 1 of every year, resulting in a gap in licensing for these producers. Further, although such a licensee would presumably be allowed to continue in operation during that period, subject to DOH rules until RLD adopts new rules, the bill makes no provision for enforcement of DOH rules, since DOH’s enforcement responsibility likely terminates upon the July 1, 2019 effective date of HB 356.

DOH also reports that Section 5’s limitation on personal production to those over age 21, 1,349 people currently enrolled in the existing medical marijuana program to grow their own product, primarily because of financial limitations, would not be allowed to do so.

NMED notes that Section 18 requires NMED promulgate rules for packaging requirements, including labeling containing ingredient lists and adverse effects, testing, including potency and pesticide use, and that are not designed to appeal to children. (Although Section 3(C)(4)(d) and (e) require RLD to adopt rules regarding labeling requirements.) NMED asserts it does not have the expertise to fulfill this requirement and suggests that DOH or NMDA may. Similarly, it contends that the legislative intent of Section 19’s requirement that NMED assist RLD in promulgating rules governing cannabis manufacturing licenses and a cannabis testing laboratory, as well as Section 20’s mandate that it establish and provide a set of certified reference materials for laboratory testing, may be better served by assigning those duties to DOH, which administers the state laboratory and whose scientists may be subject matter experts in this field.

Energy and Water Requirements. TRD comments that high use of energy and water may limit the retail industry at some point if growth is rapid. Section 8(B)(4) requires that licensees “use fifty percent captured, active, passive or natural solar energy or recycled water to produce cannabis or otherwise in the business”. Most plant production is defined by how much light is used and, therefore, this requirement could severely limit the industry. TRD asserts that as written, it is unclear as to what types of energy would satisfy the requirement and whether just

using recycled water would be sufficient. On the other hand, EDD notes this provision aligns with the state’s focus on augmenting its renewable energy portfolio.

Records Destruction, Resentencing. AOC raises issues as to Section 38’s directive to destroy records for past charges, arrests, and convictions), which includes records relating to other offenses charged in the accusatory pleading. This would require courts to destroy physical records of non-marijuana related charges in these cases and to remove electronic records of these cases from public or court user view in the case management system. These additional offenses could be entirely unrelated to marijuana possession, use, or trafficking. Removing information about these additional offenses is not related to ensuring that persons charged with marijuana-related offenses are not stigmatized or penalized by the marijuana-related offenses. Rather, it may result in important information about non-marijuana criminal offenses not being available to the public, law enforcement, or the courts. Likewise, HB 356 does not address whether the courts should consider these non-related offenses when dismissing or resentencing terms of incarceration.

DOH also reports that its medical cannabis program holds many criminal history records submitted by license applicants, and that it and other licensing boards will need to review their records and destroy those that must be destroyed, which tasks would require significant time and resources.

Further, AOC points out that while Section 39 creates a procedure to deal with sentences for people who are incarcerated or have been incarcerated for marijuana-related offenses, it does not provide a similar procedure for persons who on probation due to marijuana-related offenses. AOC asserts it is likely that a significant number of people charged with marijuana-related offenses are serving terms of probation rather than incarceration. In order to ensure that all penalties for marijuana-related offenses are dismissed, this bill should consider procedures to address terms of probation for these offenses as well.

Advisory Committees. The bill requires RLD to convene an advisory committee to advise it on a number of topics. First, the bill does not set the number of committee members. Further, although one topic specified is best practices and guidelines that protect the public health and safety, DPS notes no representative of law enforcement is included on the committee. Similarly, DPS is not included on the “public health and safety advisory committee” which reports to the Legislature annually on topics including “road safety and driving while impaired”, even though the bill requires all law enforcement agencies in the state to report annually to DPS its total number of arrests and citations for cannabis-related violations, including motor vehicle accidents.

Changes to Criminal Statutes. DPS points out the lack of a per se limit for marijuana impairment, which it believes critical in the enforcement of DWI laws. It reports several states that have legalized marijuana have set such limits, and recommends a per se limit for marijuana impairment of 2 nanograms per milliliter.

DPS also expresses concern that making intentional distribution of marijuana by a person over 18 only a misdemeanor (unless done from a storefront, in which case it is a fourth degree felony) provides insufficient incentive to encourage licensed distribution as opposed to illicit market distribution. DPS recommends making sales by either method at least fourth degree felonies. Additionally, the unlicensed manufacture of cannabis extracts, which may use butane, an explosive, is a fourth degree felony under HB 356. DPS notes that states that have legalized

marijuana report that labs using butane are a major illicit market and public safety issue. DPS recommends a penalty for unlicensed manufacture of cannabis extracts be equivalent to that for the illegal operation of a methamphetamine lab, given the danger to persons present and the surrounding neighborhood.

DPS also notes the bill enumerates a list of factors which, alone or in combination, do not constitute “reasonable articulable suspicion” of a crime. DPS is concerned that this language will unreasonably inhibit investigation of possession and trafficking, particularly when factors listed are present in a motor vehicle, and that the statute should not attempt to define what a trained law enforcement officer may and may not consider in the investigation of criminal activity. According to DPS, the bill’s definition of “reasonable articulable suspicion” may conflict with judicial interpretation of the Fourth Amendment and the New Mexico constitutional provision against unreasonable searches and seizures. See, e.g., The Effect of Legislation on Fourth Amendment Protection, 115 Michigan L. Rev. 1117 (2017).

DPS also comments that the bill in its current form repeals the criminal statute for Possession of Drug Paraphernalia in its entirety. DPS understands that revisions to the definition of drug paraphernalia would be necessary if marijuana is legalized, but believes there is no reason to completely repeal the statute. Drug paraphernalia is involved with all manner of controlled substances, and is not limited to just marijuana. DPS asserts this criminal charge is still necessary to assist with the enforcement of the Controlled Substances Act; amendment may be appropriate, but not outright repeal.

Local Option Opt-Out. NMAG notes that Section 11(A) (3) permits local jurisdictions to prohibit cannabis retailers or microbusinesses, but not what might be larger-scale cannabis production operations.

Community Grants Reinvestment Funding Grants. DOH notes it is required to issue grant money from the Community Grants Reinvestment Fund to “programs that provide equity resources, including start-up funding, incubation, technical assistance, training and educational opportunities, for people who want to become part of the cannabis industry in New Mexico”. Section 42(B)(11). DOH believes this may not be an appropriate task for a public health agency.

Occupational Health and Safety Issues. NMED advises that as the state agency designated by the state’s Occupational Health and Safety Act, it must enforce rules that are at least as effective as federal OSHA rules. HB 356’s language requiring RLD to adopt rules regarding occupational health and safety standards does not include this requirement, nor preserve NMED authority to enforce those rules as to persons working in the cannabis industry.

Additionally, as discussed in the Financial Implications section, HB 356’s provision setting a \$1,000 maximum civil penalty is inconsistent with existing state law, see Section 50-24, NMSA 1978, and will likely result in a federal finding that the state is less effective than federal law in enforcing occupational health and safety, which could jeopardize federal funding of the state’s occupational health and safety program.

PERFORMANCE IMPLICATIONS

EDD reports this bill may impact its LEDA and JTIP performance measures. Recreational and medical cannabis production facilities and their employees may qualify for assistance from both programs.

ADMINISTRATIVE IMPLICATIONS

TRD advises that implementing the program by January 1, 2020, the date specified in Section 8 for issuing first licenses, is not feasible. It recommends the date be changed to January 1, 2021, and corresponding dates for full retail outlets likewise delayed.

RELATIONSHIP

HB 356 relates to SB 323 and SB 408, which provide for reductions in penalties for the possession of marijuana.

OTHER SUBSTANTIVE ISSUES

Motor Vehicle Accidents Involving Cannabis. NMDOT reports that its Traffic Records Bureau collects data on the number of driver fatalities involving use of cannabinoids in its “Fatallog” file. Cannabinoid use is only measured from drivers that are killed in crashes, not for surviving drivers. Pedestrians are recorded as drivers of non-motorized vehicles, and are included as drivers in this data file. The data is collected from the offices of medical investigators. From 2016 through 2018, the total number of driver fatalities involving cannabinoid use was 58 while the total number of driver fatalities was 147. A total of 39.5 percent of driver fatalities involved cannabinoid use. Of the 58 total driver fatalities involving cannabinoid use, 22 drivers were in a car, van or SUV, 10 were on a motorcycle, 16 were pedestrian, 9 were in a truck, and one was in a transport truck. Fifty-three percent of the deaths were in rural areas of the state, while 47 percent were in urban areas. Forty-five percent of the driver fatalities involving cannabinoid use were drivers that were between 20 and 34 years old. Nineteen percent of the total driver fatalities from 2016 to 2018 involved out-of-state drivers and 81 percent were New Mexico residents.

Children and marijuana. On the one hand, children are adversely affected by criminalization of marijuana-related offenses, either being incarcerated themselves due to marijuana use or sales, or the incarceration of a parent for such an offense – incarceration of a parent is a serious adverse childhood event. Thus decriminalization of marijuana would benefit children.

On the other hand, children also suffer effects of their own and their parents’ marijuana use. The American Academy of Pediatrics (AAP) finds serious concerns of marijuana on the developing brain of the children, mostly teenagers, who use it. The AAP indicates that studies clearly show impaired short term memory and decreased concentration, attention span, and problem solving, which clearly interfere with learning in association both with short-term and long-term marijuana use. There is concern that adolescent use of marijuana may be a precursor to other drug use.

Children may also be exposed to cannabis through edible forms. Although no deaths from accidental or intentional ingestion of marijuana –containing edibles in children were reported by 2015, many children in Colorado and elsewhere have been treated for those ingestions

The other second-hand exposure to marijuana may come to infants in the uterus of women using marijuana during pregnancy. At least one study found that “women who used any marijuana during pregnancy had a higher likelihood of developing anemia, and infants exposed prenatally to marijuana had a decrease in birth weight (mean difference in weight of 110 g for exposed versus unexposed neonates) and a higher likelihood of needing admission to an NICU.” Thus use by a mother during pregnancy has some proven and other suspected effects.

In summary “Although the AAP does not condone state laws that allow the sale of marijuana products, in states where recreational marijuana is currently legal, pediatricians should advocate that states regulate the product as closely as possible to tobacco and alcohol, with a minimum age of 21 years for purchase. Revenue from this regulation should be used to support research on the health risks and benefits of marijuana. These regulations should include strict penalties for those who sell marijuana or marijuana products to those younger than 21 years, education and diversion programs for people younger than 21 years who possess marijuana, point-of-sale restrictions, and other marketing restrictions.”

(The Impact of Marijuana Policies on Youth: Clinical, Research, and Legal Update, <http://pediatrics.aappublications.org/content/135/3/e769>).

(Marijuana Use During Pregnancy and Breastfeeding: Implications for Neonatal and Childhood Outcomes, <http://pediatrics.aappublications.org/content/142/3/e20181889>),

AMENDMENTS

RLD recommends, based on its years regulating alcohol and other industries, that the Cannabis Regulation Fund be a non-reverting fund.

Further, RLD notes this bill would have every license expiring one year from the date of issuance, which would require staff to monitor and renew licenses on a daily basis, a time-consuming and inefficient renewal process. RLD suggests that having all licenses of the same type expire annually either at the end of each month or on the same date has proven more efficient to administrate within the context of alcohol licensing renewals.

MD/sb