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FISCAL IMPACT REPORT

SPONSOR <u>Reeb/Rehm/Armstrong/Duncan</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/16/23</u>
SHORT TITLE <u>Cannabis Packaging Requirements</u>	BILL NUMBER <u>House Bill 157</u>
	ANALYST <u>Anderson</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal		Indeterminate	Recurring (FY23 and FY24)	Cannabis Regulatory Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Relates to House Bill 2, Cannabis Regulation Act (2021 Special Session)

Sources of Information

LFC Files

Responses Received From
Regulation and Licensing Department (RLD)
Department of Health (DOH)

SUMMARY

Synopsis of House Bill 157

House Bill 157 amends Section 26-2C-17 NMSA 1978 of the New Mexico Cannabis Regulation Act, cannabis products; packaging and labeling; division rulemaking. The bill provides language concerning new requirements for allowable and prohibited types of cannabis product packaging and labeling including:

- Requiring all cannabis product packaging to be opaque;
- Prohibiting packaging and labeling from mimicking packaging and labeling of products that are safe for child consumption;
- Prohibiting packages or labels that use cartoons, symbols, or images that include the likeness of cartoon characters used for marketing to children. The bill also imposes a rule that cannabis packaging cannot include depictions of celebrities or celebrity likenesses that are commonly used to market to minors; and
- Requiring all products to include a warning in a pictorial form that demonstrates the cannabis or cannabis product should not be consumed by minors.

The effective date of this bill is August 1, 2023.

FISCAL IMPLICATIONS

Regulation Licensing Department responded:

The Cannabis Control Division (CCD) of the New Mexico Regulation and Licensing Department (RLD) will incur expenses related to researching, drafting, and complying with the requirements of the State Rules Act for the administrative rulemaking processes that will be required if HB157 is enacted. Due to the effective date of HB157 (August 1, 2023), and the timelines for rulemaking mandated under the State Rules Act, if HB157 is enacted it will be necessary for the CCD to begin rulemaking efforts within FY23 and continue those efforts into FY24. It is anticipated that the costs associated with the required rulemaking proceedings will be able to be accomplished within the RLD's FY23 and FY24 budgets.

SIGNIFICANT ISSUES

The Department of Health responded:

Multiple states have experienced increases in children consuming cannabis edibles. “In 2020, more than 70 percent of calls related to marijuana edibles to the Poison Control Center involved children under the age of 5.” Consumer Alert, NY Attorney General, Leticia James (<https://ag.ny.gov/press-release/2021/consumer-alert-attorney-general-james-issues-alert-protect-children-deceptive>)

New Mexico has seen similar increases in the first several months of legal adult use sales. From March 2022 to November 2022, there were a total of 178 Cannabis-Related Calls to the New Mexico Poison Control Center. 50 percent of the calls (89 calls) were for pediatric cases ages 10 years and younger (New Mexico Poison and Drug Information Center). Additionally, cannabis related calls have increased 340.48%, from 42 calls in 2003 to 185 calls in 2021 ([New Mexico Poison and Drug Information Center](#)).

The National Confectioners Association also provides guidance indicating packaging should be distinct and not mimic non-cannabis-containing products or brands. “States should, *very early in marijuana legalization*, enact laws or promulgate regulations that clearly distinguish marijuana-containing edibles from conventional foods, protect consumers (especially children) from harm and prohibit abuse of the intellectual property of other companies.” (https://candyusa.com/policy-advocacy/national-confectioners-association-principles-on-cannabis-containing-edibles#_ftn2)

ADMINISTRATIVE IMPLICATIONS

The Cannabis Control Division says it will be required to promulgate amendments to cannabis packaging and labeling rules to ensure administrative rules adopted concerning cannabis product packaging and labeling conform with the proposed statutory language.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 2 of the 2021 special session enacted the Cannabis Regulation Act, a comprehensive plan for regulation and licensing of commercial cannabis production and distribution and sale and consumption of cannabis by people age 21 or older. A new Cannabis Control Division (CCD) was created in RLD and charged with regulating, administering, and collecting fees in connection with commercial cannabis activity and licensing, the medical cannabis program, and cannabis education and training programs.

ALTERNATIVES

RLD responded regarding the possibility of administrative rulemaking in place of legislation:

Under current law, the CCD has significant latitude in its rulemaking authority related to cannabis product packaging and labeling requirements. While the language proposed in HB157 provides explicit new requirements for cannabis product packaging and labeling, the proposed ideas could be implemented via administrative rulemaking.

The Department of Health said current regulations could be made more detailed to address additional aspects about warning label pictorial designs introduced in HB157.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If status quo remains, the number of accidental exposures or ingestion of cannabis products by children and adolescents will likely not be reduced in New Mexico.

According to DOH:

There may be a reduction in inadvertent and accidental exposure or ingestion of cannabis products by children and adolescents.

There may be a reduction in the number of calls to poison control and emergency room visits due to inadvertent and accidental exposure or ingestion of cannabis products by children and adolescents.

GA/rl/ne