

LFC Requester:

Felix Chavez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/18/2025

Check all that apply:

Bill Number: HB49

Original Correction
Amendment Substitute

Sponsor: Rep. Cynthia Borrego

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Closed Captioning Act

Analysis: Rebecca M. Guay

Phone: 505-537-7676

Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

House Bill (“HB”) 49 -- the Closed Captioning Act -- would require any person who owns or operates a television in a place of public accommodation to have closed captioning displayed on the screen. Closed captioning is a transcript of the audio portion of a TV program displayed on a screen. The bill provides definitions of terms relevant to the law. This requirement would apply to all television sets and other display screens in public areas during hours generally open to the public. Exceptions to this requirement are applicable only when the television set or the program aired is technologically incapable of supporting closed captioning, multiple televisions display the same television program, or if it falls under exemptions as per federal closed captioning regulations.

Public accommodations is defined in the Act as: a place that is open to the public where commerce takes place to include: lodging; restaurant, bar or other establishment serving food or drink; movie house, theatre, concert hall, stadium, etc.; auditorium or convention hall or other public gathering place; food, clothing hardware stores, shopping centers and other retail outlets; other places of business such as: department store, laundromat, dry cleaner, bank, salon, shoe repair, funeral parlor, gas station, accountant and/or lawyer’s offices, pharmacy, insurance office, health care provider/office, hospital or any other retail establishment; public transportation terminal or station; park, zoon, place of recreation; all school locations from nursery to post graduate or private school; senior citizen center, homeless shelter, adoption agency and other social service establishments; gym, spa, bowling alley, golf course, other exercise and recreation areas;

The bill requires the Attorney General (now the New Mexico Department of Justice “NMDOJ”) to enforce the Closed Captioning Act by promulgating rules, establishing a complaint process for members of the public to file complaints of violations, notify businesses of violations, provide thirty (30) days to cure the violation, and if not cured, assess civil penalties of up to \$250 for first time violations and \$500 for subsequent violations.

FISCAL IMPLICATIONS

The proposed legislation may have fiscal implications for the New Mexico Department of Justice, as additional resources will be required to meet its obligations. It is unclear how many, if any, additional Full-Time Equivalent (FTE’s) may be necessary to monitor complaints, conduct

investigations across the state, and issue civil penalties. The bill does not specify which agency will receive the civil penalties collected through enforcement actions. Investigating complaints can be time-consuming and resource intensive, often without resulting in civil penalties. If the legislation allows the NMDOJ to use civil penalties to offset oversight costs, such funding would likely be insufficient to cover the expenses associated with this mandate.

SIGNIFICANT ISSUES

By placing enforcement of such an expansive regulatory structure solely under the NMDOJ, HB49 poses significant enforcement challenges. The number of businesses subject to HB49 is likely tens of thousands.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

As drafted, HB49 requires the NMDOJ to enforce the Closed Captioning Act by promulgating rules, establishing a process to receive and review complaints of violations, notify businesses of found violations, and assess and collect civil penalties.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None found

TECHNICAL ISSUES

None found

OTHER SUBSTANTIVE ISSUES

HB49 contains a lengthy definition of “place of public accommodation,” which includes a non-exhaustive list of businesses to be considered “public accommodations” under the Act. The definition used in HB49 closely mirrors the definition of “public accommodation” in the federal Americans with Disabilities Act, 42 U.S.C. § 12181(7). However, other New Mexico laws have uniformly defined the term “public accommodation” as “any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not include a bona fide private club or other place or establishment that is by its nature and use distinctly private”. NMSA 1978, § 28-1-2(H) (New Mexico Human Rights Act) and 28-24-2(C) (Gender-Free Bathrooms Act). The use of a different definition of the term in the Closed Captioning Act may lead to confusion or possible litigation about whether certain businesses are considered “public accommodations” under some State laws but not others.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A