

LFC Requestor: GARCIA, Rachel

**2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: House

Category: Bill

Number: 230

Type: Introduced

Date (of THIS analysis): 1/31/2025

Sponsor(s): Reena Szczepanski and Elizabeth “Liz” Thompson

Short Title: Cannabis Testing Certain Employees

Reviewing Agency: Agency 665 - Department of Health

Analysis Contact Person: Arya Lamb

Phone Number: 505-270-4141

e-Mail: arya.lamb@doh.nm.gov

Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0		

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0		

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: none

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

HB 230 would amend NMSA 26-2B-9 to add employment protections for cannabis use for employees who are qualified patients under the Lynn and Erin Compassionate Use Act. HB 230 would protect qualified patients from employers requiring a drug test solely on the basis of using cannabis as allowed under the Lynn and Erin Compassionate Use Act. The drug test for cannabis shall be reviewed by a medical review officer who shall determine if the reason for a positive test has a legitimate medical explanation.

HB230 would not impact employers requiring a drug test for cannabis if the employer has a:

1. Reasonable suspicion of the employee's impairment by cannabis at work.
2. An accident involving the employee and at least one other person occurs.
3. An accident causing significant damage to property if the employer has a reasonable suspicion of the employee's impairment by cannabis at the time of the accident.

HB230 strikes language that previously allowed an employer to prohibit or take adverse action against an employee in a "safety-sensitive position" for use of or being impaired by cannabis on the premises of their place of employment.

HB 230 states impairment shall not be based solely on the presence of metabolites or components of cannabis. HB 230 shall not allow random drug testing of an employee to include testing for cannabis.

HB 230 would require the employer to define "cannabis impairment" and for the Department of Health to assist the Workforce Solutions Department in developing cannabis impairment guidelines for dissemination by the Department of Finance and Administration to state agencies and political subdivisions of the state.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

Tetrahydrocannabinol or THC, the psychoactive component of cannabis and its metabolites, can be found in many different biological samples (blood, urine, hair, oral fluids/saliva, breath). Due to the lipophilic nature of THC (it tends to combine with or dissolve in lipids or fats), a qualified patient who uses cannabis frequently or in large amounts may show a level of metabolites or components of cannabis in their biological sample which appears significantly elevated but may not be impaired. Conversely, a novice cannabis user may demonstrate a level of metabolites or components of cannabis in their biological sample that appears negligible while actually being impaired.

Determining cannabis impairment is complex and requires review of a physical/psychomotor evaluation in conjunction with toxicology results, by a trained professional. Toxicology results (i.e. blood or urine) alone are not sufficient to determine impairment. Most notably, history of cannabis use (i.e. chronic use vs. occasional use) can largely affect toxicological and psychomotor test results. Studies by Huestis et. al. have shown that delta-9-tetrahydrocannabinol (THC), the main psychoactive constituent of cannabis, can be detected in blood from chronic cannabis users for up to 30 days following last use. These same studies have shown residual psychomotor impairment in chronic users up to 21 days following last use compared to controls. ([Impact of Prolonged Cannabinoid Excretion in Chronic Daily Cannabis Smokers' Blood on Per Se Drugged Driving Laws - PMC](#)) ([Psychomotor Function in Chronic Daily Cannabis Smokers during Sustained Abstinence | PLOS ONE](#))

HB230 could impact individuals working in safety sensitive positions related to direct patient care and laboratory services. Facilities that provide these services have state and federal regulations they must comply with, altering safety sensitive requirements will impact funding and regulatory compliance. Additionally, due to the requirement for the employer to define “cannabis impairment”, HB 230 could increase confusion for employers and employees in defining “cannabis impairment” and to determine who is protected against adverse employment action for cannabis use under 26-2B-9 of the Act.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No

If yes, describe how.

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

HB 230 would require New Mexico Department of Health to work with Workforce Solutions to develop cannabis impairment guidelines for the dissemination by the Department of Finance and Administration to all state agencies and political subdivisions of the state.

HB 230 could potentially require a change to the State Personnel Office guidelines regarding cannabis use by state employees.

8. DISPARITIES ISSUES

None.

9. HEALTH IMPACT(S)

None.

10. ALTERNATIVES

None.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB 230 is not enacted, then the current employment protections and definitions would not change.

12. AMENDMENTS

None.