

LFC Requester:	Scott Sanchez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 6 FEB 2025 *Check all that apply:*
Bill Number: HB 274 Original Correction
 Amendment Substitute

Sponsor: Sena-Cortez, Jay Block, R. Montoya, John Block, A. Martinez **Agency Name and Code** 790 – Department of Public Safety
Short Title: Trafficking Fentanyl as a 1st Degree Felony **Number:** _____
Person Writing Dale R. Wagoner
Phone: 505-629-2803 **Email:** Dale.wagoner@dps.nm.gov

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
Total	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: Related to 2025 SB25; SB95

SECTION III: NARRATIVE

BILL SUMMARY

This bill amends the Criminal Code to provide that trafficking fentanyl is a first-degree felony, and the first and subsequent offenses are all first-degree felonies. It also amends the Criminal Sentencing Act to provide that the penalty for a first-degree felony of trafficking fentanyl is life imprisonment.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

DPS is in favor of stronger penalties for trafficking fentanyl but does have concerns about any fentanyl trafficking charge being a first-degree felony with a punishment of life imprisonment. This bill does not differentiate between an individual who is trafficking only one or a few pills versus an individual who is trafficking thousands of pills or kilogram amounts of powder. DPS believes it would be beneficial to make a differentiation between these types of cases.

PERFORMANCE IMPLICATIONS

DPS supports enhancing the penalties for the sale or trafficking of fentanyl in general, but has some concerns about this bill, which are stated above under “Significant Issues”. Drug selling and trafficking, especially of fentanyl, is a central driver of New Mexico’s behavioral health and criminal justice issues. According to an 8/24/23 Legislative Finance Committee report, New Mexico’s drug-overdose death rate ranked sixth in the nation in 2021. That was not a new trend as New Mexico’s ranking as one of the states with the highest per-capita overdoses has endured for decades. Additional tools are needed to combat this issue which continues to adversely affect communities around the state.

The state’s overdose-death rate increased 68% between 2019 and 2021. While New Mexico has rightly invested heavily in behavioral health treatment programs to address the demand-side of the problem, those programs will do little to address the sale and trafficking of drugs in our communities. Drug dealers and traffickers are responsible for hundreds of overdose deaths in New Mexico every year. This bill would target the supply of drugs in our communities by providing penalties that are commensurate with the destruction and misery drug traffickers impose on those suffering from substance use disorder and their families.

Fentanyl trafficking often comes with increased violence, particularly in the form of organized criminal activity, street-level violence, and sometimes law enforcement conflicts. Enhanced penalties may be viewed as necessary to break up these criminal organizations and reduce the associated violence and public safety risks.

The trafficking of fentanyl may involve large criminal enterprises that require significant law enforcement resources to investigate and disrupt. By increasing penalties, this would incentivize law enforcement to focus more on targeting fentanyl trafficking as a high-priority crime, ensuring that the resources spent on these investigations are justified by the severity of the issue.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No other substantive issues to DPS.

TECHNICAL ISSUES

No technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Consider having sentencing separated by the amount of fentanyl being trafficked. Also, consider adding a specific pill or powder amount for sentencing along with details about the percentage of fentanyl content in the pills or powder.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo will remain.

AMENDMENTS

None at this time.

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