

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) 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: 24 JAN 2025

Check all that apply:

Bill Number: HB 10Original Correction Amendment Substitute **Sponsor:**D. Gallegos; J Martinez; G Armstrong; M
Matthews; A. De La Cruz**Short**Establishing the Enforcement Bureau within
the Regulation and Licensing Department**Title:****Agency Name****and Code**

790 – Department of Public Safety

Number:**Person Writing**Emmanuel T. Gutierrez**Phone:** 505-917-2952**Email:**Emmanuel.gutierrez@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

SECTION III: NARRATIVE

BILL SUMMARY

This bill establishes an Enforcement Bureau within the Regulation and Licensing Department (RLD) as a law enforcement agency to enforce laws and administrative rules within regulated industries and professions. It is specifically directed toward the enforcement of cannabis regulations and authorizes the Bureau to carry out announced and unannounced inspections. The bill provides criminal and disciplinary penalties within the Cannabis Regulation Act. It also appropriates \$1.5 million (GF) to RLD for use in FY2026 to enforce the Cannabis Regulation Act.

FISCAL IMPLICATIONS

Although there is technically not funding in the bill for DPS, in reality it will have a positive fiscal impact as some of the activities DPS has directly carried out and funded related to cannabis enforcement will be shifted to this new Bureau. In addition, some of the \$1.5 million appropriated to RLD might help pay for some DPS expenses related to assists for large scale illicit cannabis enforcement operations.

SIGNIFICANT ISSUES

The bill discusses the division responding to tips. They should add language to implement specific tips programs like many countries have, such as Crime Stoppers, where tipsters receive incentives for reporting potential crimes to Crimestoppers, and judges can sentence convicted persons of cannabis crimes to contribute funds to crime stoppers as part of their sentence, as done in magistrate courts for other crimes as a form of restitution.

In Section 1, the bill states, “C. An enforcement agent shall have the same power as other law enforcement officers, including the power to maintain public order, to undertake a lawful warrantless search and seizure and to arrest someone for a crime....” In Section 2, the bill states that the division shall refer possible criminal violations to the enforcement bureau and shall assist that bureau in investigations and inspections[.]” The bill should provide language that the enforcement agent's duties include appearing in court, at administrative hearings, and testifying for the charges filed in court by the enforcement bureau or the enforcement agents themselves.

The term “Division” can refer to multiple divisions in the Regulation and Licensing Department. The bill defines “Enforcement Bureau” but not “Division,” even though it describes what the division may be responsible for. It is not clear what the distinction is between the division and the enforcement bureau in the bill as written.

PERFORMANCE IMPLICATIONS

DPS supports the RLD's ability to enforce the criminal laws and regulations that are under its purview. By combining regulatory functions with criminal enforcement, the RLD helps maintain order, trust, and safety within New Mexico’s regulated industries, ensuring compliance with state laws and protecting the general public. DPS may also assist in supporting enforcement officers in some instances while they are conducting their investigations and/or executing warrants or multiple arrests.

DPS believes this bill addresses several areas that are deficient in the current regulatory and enforcement structure of the cannabis industry. From an investigative standpoint, this would allow

for more law enforcement resources to focus on criminal activity within the cannabis market. We know the illicit market undermines the legal industry and the current structure, both regulatory and criminal, has made the problem difficult to address. By giving RLD their own law enforcement entity, there will be a constant focus on the illicit market. Currently, that responsibility is dispersed among DPS and all other law enforcement agencies in the state. Given the current staffing issues of law enforcement agencies and the myriad of other responsibilities these other agencies are required to fulfill, it often prevents the ongoing focus needed to monitor and investigate the organized criminal elements who attempt to take advantage of the industry. Having an enforcement agency solely focused on this area is the only way to give it the attention it requires and deserves. This is also the ideal situation for criminal enforcement because a law enforcement element within the Cannabis Control Division will be integrated with the regulatory component, which will improve information sharing and allow for smoother operations. It will also make it easier to transfer investigations appropriately between the regulatory and criminal fields.

DPS is also very supportive of the other measures of this bill, especially the portion giving agencies the authority to seize an embargoed or illicit product. This is a current deficiency that undermines virtually all enforcement efforts, either regulatory or criminal. The ability to seize cannabis products that are either dangerous or illicit is critical. The current law creates ambiguity for even criminal seizures when the suspect has any sort of legal licensing for cannabis. These occurs even when the licensee's activities are blatantly in violation of the law. This ambiguity gives them the ability to challenge the government and opens agencies up to possible liability exposure even when they are following a court order. A prime example of this is a tort claim filed against DPS in reference to a massive illicit cannabis operation in San Juan County. That operation was blatantly illegal, yet it was allowed to operate and likely profit off the illegal activity for months, while court hearings were carried out and enforcement activities were hampered by the offenders. They were allowed to do this even though they were clearly operating illegally and out of the scope of the law. Then even after a court order was issued to destroy the illegal products, DPS is facing a multi-million-dollar lawsuit for following the court order and dealing with blatantly illegal activity. Given the ambiguity of the current law, other law enforcement agencies will likely be hesitant to carry out enforcement until this ambiguity is remedied. This bill helps to remedy those issues by giving the Cannabis Control Division clear authority to seize embargoed and illicit cannabis products. It also puts the expense on the licensee, which is appropriate, because currently the taxpayers are bearing the cost for illegal behavior by the offenders.

The funding attached to this bill is also necessary, as DPS has firsthand knowledge of the extreme expenses associated with dismantlement and disposal of large-scale illegal operations and their products. These types of operations can easily run into several \$100,000 each.

ADMINISTRATIVE IMPLICATIONS

None to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None to DPS.

TECHNICAL ISSUES

None to DPS.

OTHER SUBSTANTIVE ISSUES

None to DPS.

ALTERNATIVES

None to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo will remain.

AMENDMENTS

None to DPS.