

LFC Requester:	Austin Davidson
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(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: March 3, 2025 *Check all that apply:*
 Original Correction
Bill Number: HDEDC Sub for
HB 346
 Amendment Substitute

Sponsor: Reps. Andrea Romero and
Derrick J. Lente **Agency Name and Code** Regulation and Licensing Department -
420
Short Title: Hemp Products and Synthetic
Cannabinoids **Person Writing** Bradford A. Borman
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	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	N/A	Undetermined*	Undetermined*	Undetermined*	Undetermined*	Cannabis Regulation Fund

(Parenthesis () Indicate Expenditure Decreases)

*The Regulation and Licensing Department anticipates being able to adapt to absorb any

increases to operating costs for the Cannabis Control Division resulting from the enactment of HB 346 within the Department's existing budget and staffing.

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Commerce and Economic Development Committee Substitute for HB 346:

The substitute bill changes the original bill in the following ways:

- Clarifies that the New Mexico Environment Department (NMED) will retain rulemaking authority over hemp manufacturing until July 1, 2025, and that the Environmental Improvement Board (EIB) will assume rulemaking authority on July 1, 2025. Any rules promulgated by NMED will remain in effect until amended or repealed by the EIB.
- Clarifies that the NMED will adopt rules for hemp retailers and will retain rulemaking authority over hemp retailers until July 1, 2025, and that the Environmental Improvement Board will assume rulemaking authority on July 1, 2025. Any rules promulgated by the NMED will remain in effect until amended or repealed by the EIB.

Original HB 346

HB 346 adds the following definitions to the Hemp Manufacturing Act (HMA):

- Semi-Synthetic Cannabinoid – “means a substance that is created by a chemical reaction that converts one cannabinoid extracted from Cannabis sativa L. directly into a different cannabinoid; provided that 'semi-synthetic cannabinoid' does not include a cannabinoid produced via decarboxylation of naturally occurring acidic forms of cannabinoids, such as tetrahydrocannabinolic acid, into the corresponding neutral cannabinoid, such as THC, through the use of heat or light without the use of chemical reagents or catalysts and that results in no other chemical change;”
- Synthetic Cannabinoid – “means a cannabinoid-like compound that was produced by using chemical synthesis, chemical modification or chemical conversion; provided that 'synthetic cannabinoid' does not include: (1) a compound produced through the decarboxylation of naturally occurring cannabinoids from their acidic forms; or (2) a semi-synthetic cannabinoid;”
- Hemp Retailer - "means a person that provides hemp finished products directly to consumers.”
- Ingestion – “means the process of taking food, drink or another substance into the body by swallowing or absorbing it;”
- Consumer – “means a person who is a member of the public, takes possession of a hemp finished product, is not functioning in the capacity of a hemp manufacturer or hemp producer and does not offer the hemp finished product for resale.”

HB 346 amends the following definitions in the HMA:

- Hemp – "means the plant *Cannabis sativa* L. and any part of that plant, including seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a THC concentration of not more than three-tenths percent or a concentration allowed by federal law, whichever is greater, based on dry weight;"
- Hemp Extract – "means oil and extracts derived from hemp, containing THC in any concentration, including cannabidiol, cannabidiolic acid and other identified and non-identified compounds;"
- Hemp Finished Product – "mean a product for human ingestion or inhalation that contains hemp or hemp extracts and is intended to be provided to consumers."
- Hemp Manufacturer – "means a person that extracts, processes or engages in other manufacturing activities regarding hemp, including manufacturing hemp extract and hemp finished products."

HB 346 reassigns regulatory authority over New Mexico hemp manufacturing from the NMED to the EIB. The NMED will still be tasked with enforcing hemp manufacturing and product standards, however, EIB will assume rulemaking authority for hemp finished products sold at retail including product labeling, storage and registration and hemp extracts intended for human consumption. EIB is directed to adopt the existing NMED rules, which shall remain in effect at the NMED until adopted by the EIB. The NMED will continue to issue permits to hemp manufacturers, conduct inspections of manufacturing and retail facilities, enforce penalties for rule violations and manage hemp production transportation requirements. Under HB 346 the NMED is granted the authority to issue compliance orders for violations related to hemp manufacturing and retail rules, assess civil penalties, and seek injunctions against non-compliant manufacturers and retailers. HB 346 imposes a prohibition on synthetic cannabinoids and semi-synthetic cannabinoids, by banning the receipt, possession, advertising, marketing and sale of synthetic and semi-synthetic cannabinoids in New Mexico.

FISCAL IMPLICATIONS

HCEDC Sub. For HB 346

The substitute bill does not change the fiscal implications from the original bill.

Original HB 346

The total fiscal implications of HB 346 on the Regulation and Licensing Department (RLD) cannot be accurately estimated at this time. While there is a possibility that HB 346 will result in some increase in the enforcement workload for compliance officers of the Cannabis Control Division (CCD) of the RLD, any increased costs are not anticipated to be significant to the overall budget and staffing of the CCD. The additional work the CCD may encounter would include ensuring that licensees under the Cannabis Regulation Act (CRA) are not incorporating prohibited hemp-derived cannabinoids into licensed cannabis products.

SIGNIFICANT ISSUES

See CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

PERFORMANCE IMPLICATIONS

HCEDC Sub. For HB 346

The substitute bill does not change the performance implications from the original bill.

Original HB 346

Inter-agency agreements (memorandums of understanding, etc.) may need to be crafted between the RLD and the NMED to clearly define the respective roles and responsibilities for enforcement if prohibited products are identified at CRA licensed locations. HB 346 could result in an initially higher enforcement workload for the RLD to address situations where licensees under the CRA have engaged in unlawfully blending cannabis and hemp-derived THC. However, it is also anticipated that enforcement actions in this area would level off and decline over time as enforcement efforts make clear that these violations will not be tolerated. There may be a need for the CCD to promulgate additional administrative rules related to this topic.

ADMINISTRATIVE IMPLICATIONS

HCEDC Sub. For HB 346

The substitute bill does not change the administrative implications from the original bill.

Original HB 346

HB 346 assigns regulatory authority over the contemplated products to NMED and EIB; the RLD is not directly responsible for enforcement. However, the ban on synthetic and semi-synthetic cannabinoids applies across both the hemp and cannabis industries, so the CCD will have to be on the lookout for violations of the law with its licensees as well.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HCEDC Sub. For HB 346

The substitute bill does not change the conflict, duplication, companionship, or relationship implications from the original bill.

Original HB 346

Pursuant to Section 26-2C-6 (L), licensees under the CRA are specifically allowed to conduct other licensed activities, including activities pursuant to the Hemp Manufacturing Act [Chapter 76, Article 24 NMSA 1978] and the Liquor Control Act except for co-location of activities as specified in Subsection J of the section. Section 5 (C) of HB 346 states that “Hemp retailers shall not receive, possess, offer, advertise, market or sell hemp finished products that have a THC concentration of more than three-tenths percent, or a concentration allowed by federal law, whichever is greater, or hemp finished products containing semi-synthetic cannabinoids or synthetic cannabinoids.” The CCD will need to coordinate with the EIB on rulemaking in this area to ensure there is clarity regarding allowable conduct of licensees under the CRA.

The CCD will likewise need to coordinate with the EIB on rules to be adopted under Section 2 (C)(4) of the bill. This section provides that the EIB shall adopt rules “requiring, and providing a process for, the use or disposal of [hemp-derived material] hemp extract and hemp finished products containing THC levels of more than three-tenths percent.” In order to avoid regulatory overlap, any rules adopted by the EIB concerning products that contain THC levels of more than three-tenths percent THC will need to take into account those products that are lawfully produced/possessed under the CRA and the Lynn and Erin Compassionate Use Act.

TECHNICAL ISSUES

See CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HCEDC Sub. For HB 346

The consequences of not enacting the substitute bill will be the same as those for not enacting the original bill.

Original HB 346

Under the current laws of New Mexico, hemp-derived cannabinoid products are effectively unregulated. The presence of these potentially intoxicating products on the shelves of convenience stores, gas stations, smoke shops, and other businesses has proliferated at a staggering pace. Moreover, these products are now readily available for order over the internet from a huge number of sellers for unrestricted delivery to New Mexico. These products are being made available to people in New Mexico, including children, without any guarantees the products have been tested to be safe for human consumption. Unlike products manufactured and offered to the public under the regulatory requirements of the Cannabis Regulation Act, there is no way to know whether these hemp-derived products contain harmful pesticides, mold, dangerous chemicals, heavy metals, or other contaminants. If HB 346 is not enacted, these threats to the public health and safety (including the health and safety of children) will go on unfettered. Without the enactment of HB 346, there will be no governmental authority with clearly defined oversight over synthetic cannabinoids in our state. Additionally, if HB 346 does not become law, the sale of high-THC hemp-derived products will continue to undermine New Mexico's regulated cannabis industry.

AMENDMENTS