

LFC Requester:	Ismael Torres
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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original	<input checked="" type="checkbox"/>	Amendment	<input type="checkbox"/>	Date	<u>01/28/19</u>
Correction	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Bill No:	<u>SB 323</u>

Sponsor:	<u>CERVANTES</u>	Agency Code:	<u>264</u>
Short Title:	<u>DECREASING PENALTIES FOR MARIJUANA &</u>	Person Writing	<u>RVAZQUEZ</u>
		Phone:	<u>5056708484</u>
		Email	<u>ROSANNACVAZQU</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
NA	NA		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
LESS CASES FOR DA'S PD'S AND COURTS	SAME	SAME		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: 2019 session may conflict with HB 356 CANNIBAS REGULATION ACT currently at HHHC and HJC, which legalizes use of marijuana.

Senator Cervantes has raised this bill in 2017SB 258 and in 2018 SB 141 and both have died in committee.

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 323 amends the controlled substances act, possession prohibited section as follows:

1. Possession of up to on half ounce will be assessed a penalty of \$50.00.
2. Possession of half an ounce to an ounce is guilty of a petty misdemeanor and will be assessed a fine from \$50.00 - \$100.00 dollars and up to 15 days in jail. Second offense is a misdemeanor with a fine of \$100.00 - \$1000.00, or a term of imprisonment for a definite term up to a year, or both.
3. Possession of more than one ounce but less than eight ounces is guilty of a misdemeanor and will be assessed a fine from \$50.00 - \$100.00 dollars and up to 15 days in jail. Second offense is a misdemeanor with a fine assessed of \$100.00 - \$1000.00, or a term of imprisonment for a definite term up to a year, or both.
4. Possession of eight ounces or more is guilty of a fourth degree felony and sentenced pursuant to NMSA Section 31-18-15.
5. The sentencing and penalty assessment for synthetic cannabinoids is the same as is set out above for marijuana.
6. Possession or use of drug paraphernalia is subject to a penalty assessment of \$50.00.

The penalty assessment section of the bill decriminalizes possession of marijuana or synthetic cannabinoids for less than half an ounce, and decriminalizes possession of use of drug paraphernalia.

Section 3 of the Statute is new in its entirety and regulates the penalty assessments and timing of payments. Persons given a penalty assessment are offered either payment or court. Warnings Officers may still issue warnings to persons found to be in possession of under an ounce or of drug paraphernalia. See Pgs. 9-11.

Albuquerque and Santa Fe city councils have already decriminalized possession of marijuana

under an ounce. This law provides parity with municipal ordinances and state law.

FISCAL IMPLICATIONS: The prior bills listed above mirror the SB introduced. LOPD, AOC and OAG all commented on the significant reduction of cases to the District Attorneys and public defenders, and the less of a strain on the court system.

SIGNIFICANT ISSUES:

AMENDMENT LANGUAGE - NA

PERFORMANCE IMPLICATIONS – NA

ADMINISTRATIVE IMPLICATIONS - NA

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP – Passage of this bill will not be necessary of the legalization of cannabis/marijuana is passed.

TECHNICAL ISSUES -NA

OTHER SUBSTANTIVE ISSUES - NA

ALTERNATIVES - NA

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL:

Enacting the bill is a manner in which to deal with a petty misdemeanor but not clog the court with small actions. It provides the person possessing marijuana drug paraphernalia or cannabis the option of paying a fine, acknowledging the illegality of the action but not requiring a public defender or appearance at court.

AMENDMENTS:

Not at this time.