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SENATE BILL 100

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO CANNABIS REGULATION; DEFINING TERMS; CLARIFYING THE
DEFINITION OF "CANNABIS"; SPECIFYING THE PROCESS OF CRIMINAL
HISTORY RECORDS CHECKS; PROVIDING MANDATORY MINIMUM TRAINING
REQUIREMENTS FOR LICENSEES AND THEIR EMPLOYEES; PROHIBITING THE
SALE OF CANNABIS AND ALCOHOLIC BEVERAGES ON THE SAME PREMISES;
PROVIDING FOR A JOINT POWERS AGREEMENT BETWEEN THE REGULATION
AND LICENSING DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENT FOR
INSPECTIONS OF CANNABIS FACILITIES THAT PRODUCE EDIBLE AND
TOPICAL CANNABIS PRODUCTS; CLARIFYING BUSINESS LOCATION
REPORTING FOR TAX PURPOSES; AUTHORIZING CERTAIN NONPROFIT
MEDICAL CANNABIS PRODUCERS TO DISSOLVE THEIR NONPROFIT
CORPORATION STATUS AND TRANSFER ASSETS IF INCORPORATING AS FOR-
PROFIT CORPORATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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1 SECTION 1. Section 26-2B-3 NMSA 1978 (being Laws 2007,
2 Chapter 210, Section 3, as amended) is amended to read:

3 "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin
4 Compassionate Use Act:

5 A. "adequate supply" means an amount of cannabis,
6 in any form approved by the department, possessed by a
7 qualified patient or collectively possessed by a qualified
8 patient and the qualified patient's primary caregiver that is
9 determined by rule of the department to be no more than
10 reasonably necessary to ensure the uninterrupted availability
11 of cannabis for a period of three months and that is derived
12 solely from an intrastate source;

13 B. "cannabis":

14 (1) means all parts of the plant Cannabis
15 containing a [~~delta-9-tetrahydrocannabinol~~]
16 tetrahydrocannabinol concentration of more than three-tenths
17 percent on a dry weight basis, whether growing or not; the
18 seeds of the plant; the resin extracted from any part of the
19 plant; and every compound, manufacture, salt, derivative,
20 mixture or preparation of the plant, its seeds or its resin;
21 and

22 (2) does not include the mature stalks of the
23 plant; fiber produced from the stalks; oil or cake made from
24 the seeds of the plant; any other compound, manufacture, salt,
25 derivative, mixture or preparation of the mature stalks, fiber,

1 oil or cake; the sterilized seed of the plant that is incapable
2 of germination; the weight of any other ingredient combined
3 with cannabis to prepare topical or oral administrations, food,
4 drink or another product; or hemp;

5 C. "cannabis extract":

6 (1) means a product obtained by separating
7 resins from cannabis by solvent extraction using solvents other
8 than vegetable glycerin, such as butane, hexane, isopropyl
9 alcohol, ethanol or carbon dioxide; and

10 (2) does not include the weight of any other
11 ingredient combined with cannabis extract to prepare topical or
12 oral administrations, food, drink or another product;

13 D. "cannabis flowers" means only the flowers of a
14 cannabis plant;

15 E. "cannabis product":

16 (1) means a product that contains cannabis,
17 including edible or topical products that may also contain
18 other ingredients; and

19 (2) does not include the weight of any other
20 ingredient combined with cannabis or cannabis extract to
21 prepare topical or oral administrations, food, drink or another
22 product;

23 F. "debilitating medical condition" means:

24 (1) cancer;

25 (2) glaucoma;

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- 1 (3) multiple sclerosis;
- 2 (4) damage to the nervous tissue of the spinal
- 3 cord, with objective neurological indication of intractable
- 4 spasticity;
- 5 (5) seizure disorder, including epilepsy;
- 6 (6) positive status for human immunodeficiency
- 7 virus or acquired immune deficiency syndrome;
- 8 (7) admitted into hospice care in accordance
- 9 with rules promulgated by the department;
- 10 (8) amyotrophic lateral sclerosis;
- 11 (9) Crohn's disease;
- 12 (10) hepatitis C infection;
- 13 (11) Huntington's disease;
- 14 (12) inclusion body myositis;
- 15 (13) inflammatory autoimmune-mediated
- 16 arthritis;
- 17 (14) intractable nausea or vomiting;
- 18 (15) obstructive sleep apnea;
- 19 (16) painful peripheral neuropathy;
- 20 (17) Parkinson's disease;
- 21 (18) posttraumatic stress disorder;
- 22 (19) severe chronic pain;
- 23 (20) severe anorexia or cachexia;
- 24 (21) spasmodic torticollis;
- 25 (22) ulcerative colitis; or

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1 (23) any other medical condition, medical
2 treatment or disease as approved by the department;

3 G. "department" means the department of health;

4 H. "division" means the cannabis control division
5 of the regulation and licensing department;

6 I. "dry weight basis" means a process by which
7 delta-9-tetrahydrocannabinol concentration is measured relative
8 to the aggregate weight of all parts of the plant genus
9 Cannabis, whether growing or not, including the leaves of the
10 plant, the flowers and buds of the plant, the seeds of the
11 plant, the resin of the plant and the stalks of the plant, at
12 the point of harvest and with no moisture added to the
13 harvested plant;

14 J. "hemp" means the plant genus Cannabis and any
15 part of the plant, whether growing or not, containing a delta-
16 9-tetrahydrocannabinol concentration of no more than three-
17 tenths percent on a dry weight basis;

18 K. "medical cannabis program" means the program
19 established pursuant to the Lynn and Erin Compassionate Use Act
20 for authorization and regulation of the medical use of cannabis
21 in the state;

22 L. "practitioner" means a person licensed in New
23 Mexico to prescribe and administer drugs that are subject to
24 the Controlled Substances Act;

25 M. "primary caregiver" means a resident of New

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1 Mexico who is at least eighteen years of age and who has been
2 designated by the patient's practitioner as being necessary to
3 take responsibility for managing the well-being of a qualified
4 patient with respect to the medical use of cannabis pursuant to
5 the provisions of the Lynn and Erin Compassionate Use Act;

6 N. "qualified patient" means a resident of New
7 Mexico who has been diagnosed by a practitioner as having a
8 debilitating medical condition and has received written
9 certification and a registry identification card pursuant to
10 the Lynn and Erin Compassionate Use Act on the basis of having
11 been diagnosed, in person or via telemedicine, by a
12 practitioner as having a debilitating medical condition;

13 O. "reciprocal participant" means a person who is
14 not a resident of New Mexico and who holds proof of enrollment
15 by a governmental regulatory authority to participate in the
16 medical cannabis program of another state of the United States,
17 the District of Columbia or a territory or commonwealth of the
18 United States in which the person resides or a person who holds
19 proof of enrollment by a governmental regulatory authority of a
20 New Mexico Indian nation, tribe or pueblo to participate in its
21 medical cannabis program;

22 P. "registry identification card" means a document
23 that the department issues:

24 (1) to a qualified patient that identifies the
25 bearer as a qualified patient and authorizes the qualified

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1 patient to use cannabis for a debilitating medical condition;
2 or

3 (2) to a primary caregiver that identifies the
4 bearer as a primary caregiver authorized to engage in the
5 intrastate possession and administration of cannabis for the
6 sole use of a qualified patient who is identified on the
7 document;

8 Q. "safety-sensitive position" means a position in
9 which performance by a person under the influence of drugs or
10 alcohol would constitute an immediate or direct threat of
11 injury or death to that person or another;

12 R. "telemedicine" means the use of
13 telecommunications and information technology to provide
14 clinical health care from a site apart from the site where the
15 patient is located, in real time or asynchronously, including
16 the use of interactive simultaneous audio and video or store-
17 and-forward technology, or off-site patient monitoring and
18 telecommunications in order to deliver health care services;

19 S. "THC" means [~~delta-9-tetrahydrocannabinol~~]
20 tetrahydrocannabinol, a substance that is the primary
21 psychoactive ingredient in cannabis; and

22 T. "written certification" means a statement made
23 on a department-approved form and signed by a patient's
24 practitioner that indicates, in the practitioner's professional
25 opinion, that the patient has a debilitating medical condition

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1 and the practitioner believes that the potential health
2 benefits of the medical use of cannabis would likely outweigh
3 the health risks for the patient."

4 SECTION 2. Section 26-2C-1 NMSA 1978 (being Laws 2021
5 (1st S.S.), Chapter 4, Section 1) is amended to read:

6 "26-2C-1. SHORT TITLE.--~~[Sections 1 through 42 of this~~
7 ~~act]~~ Chapter 26, Article 2C NMSA 1978 may be cited as the
8 "Cannabis Regulation Act"."

9 SECTION 3. Section 26-2C-2 NMSA 1978 (being Laws 2021
10 (1st S.S.), Chapter 4, Section 2) is amended to read:

11 "26-2C-2. DEFINITIONS.--As used in the Cannabis
12 Regulation Act:

13 A. "advertisement":

14 (1) means a statement or a depiction that is
15 intended to induce the purchase of cannabis products and that
16 is displayed in printed material or on a sign or other outdoor
17 display or presented in a radio, television or other media
18 broadcast or in digital media; and

19 (2) does not include:

20 (a) a sign or outdoor display or other
21 statement permanently affixed to a licensed premises that is
22 intended to induce the sale of a cannabis product produced or
23 sold on the premises;

24 (b) a label affixed to a cannabis
25 product or the covering, wrapper or container of a cannabis

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1 product; or

2 (c) an editorial or other material
3 printed in a publication when the publication of the editorial
4 or material was not paid for by a licensee and was not intended
5 to promote the sale of cannabis products by a particular brand
6 or company;

7 B. "applicant" means a person seeking licensure;

8 [~~B.~~] C. "cannabis":

9 (1) means all parts of the plant genus
10 Cannabis containing a [~~delta-9-tetrahydrocannabinol~~]
11 tetrahydrocannabinol concentration of more than three-tenths
12 percent on a dry weight basis, whether growing or not; the
13 seeds of the plant; the resin extracted from any part of the
14 plant; and every compound, manufacture, salt, derivative,
15 mixture or preparation of the plant, its seeds or its resin;
16 and

17 (2) does not include:

18 (a) the mature stalks of the plant;
19 fiber produced from the stalks; oil or cake made from the seeds
20 of the plant; any other compound, manufacture, salt,
21 derivative, mixture or preparation of the mature stalks, fiber,
22 oil or cake; or the sterilized seed of the plant that is
23 incapable of germination; or

24 (b) the weight of any other ingredient
25 combined with cannabis products to prepare topical or oral

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1 administrations, food, drink or another product;

2 [G-] D. "cannabis consumption area" means an area
3 where cannabis products may be served and consumed;

4 [D-] E. "cannabis courier" means a person that
5 transports cannabis products to qualified patients, primary
6 caregivers or reciprocal participants or directly to consumers;

7 [E-] F. "cannabis establishment" means:

8 (1) a cannabis testing laboratory;

9 (2) a cannabis manufacturer;

10 (3) a cannabis producer;

11 (4) a cannabis retailer;

12 (5) a cannabis research laboratory;

13 (6) a vertically integrated cannabis

14 establishment;

15 (7) a cannabis producer microbusiness; or

16 (8) an integrated cannabis microbusiness;

17 [F-] G. "cannabis extract":

18 (1) means a product obtained by separating
19 resins, tetrahydrocannabinols or other substances from cannabis
20 by extraction methods approved by the division; and

21 (2) does not include the weight of any other
22 ingredient combined with cannabis extract to prepare topical or
23 oral administrations, food, drink or another product;

24 [G-] H. "cannabis flowers" means only the flowers
25 of a cannabis plant;

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1 [~~H.~~] I. "cannabis manufacturer" means a person
2 that:
3 (1) manufactures cannabis products;
4 (2) packages cannabis products;
5 (3) has cannabis products tested by a cannabis
6 testing laboratory; or
7 (4) purchases, acquires, sells or transports
8 wholesale cannabis products to other cannabis establishments;

9 [~~F.~~] J. "cannabis producer" means a person that:
10 (1) cultivates cannabis plants;
11 (2) has unprocessed cannabis products tested
12 by a cannabis testing laboratory;
13 (3) transports unprocessed cannabis products
14 only to other cannabis establishments; or
15 (4) sells cannabis products wholesale;

16 [~~J.~~] K. "cannabis producer microbusiness" means a
17 cannabis producer at a single licensed premises that possesses
18 no more than [~~two hundred~~] one thousand total mature cannabis
19 plants at any one time;

20 [~~K.~~] L. "cannabis product" means a product that is
21 or that contains cannabis or cannabis extract, including edible
22 or topical products that may also contain other ingredients;

23 [~~L.~~] M. "cannabis research laboratory" means a
24 facility that produces or possesses cannabis products and all
25 parts of the plant genus Cannabis for the purpose of studying

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1 cannabis cultivation, characteristics or uses;

2 [M-] N. "cannabis retailer" means a person that
3 sells cannabis products to qualified patients, primary
4 caregivers or reciprocal participants or directly to consumers;

5 [N-] O. "cannabis server permit" means an
6 authorization that allows a person to directly offer, sell or
7 serve cannabis or cannabis products as part of commercial
8 cannabis activity in a retail establishment or a cannabis
9 consumption area;

10 [O-] P. "cannabis server permit education provider"
11 means a person that provides cannabis server education courses
12 and examinations;

13 [P-] Q. "cannabis testing laboratory" means a
14 person that samples, collects and tests cannabis products and
15 transports cannabis products for ~~[the purpose of]~~ testing;

16 [Q-] R. "cannabis training and education program"
17 means a practical or academic curriculum offered by a New
18 Mexico public post-secondary educational institution and
19 approved by the division that is designed to prepare students
20 for participation in the cannabis industry;

21 [R-] S. "commercial cannabis activity:
22 (1) means the cultivation, production,
23 possession, manufacture, storage, testing, researching,
24 labeling, transportation, couriering, purchase for resale, sale
25 or consignment of cannabis products; and

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1 (2) does not include activities related only
2 to the medical cannabis program, to cannabis training and
3 education programs or to the personal cultivation or use of
4 cannabis;

5 [~~S.~~] T. "consumer" means a person twenty-one years
6 of age or older who purchases, acquires, owns, possesses or
7 uses a cannabis product for a purpose other than resale;

8 [~~F.~~] U. "contaminant" means pesticides and other
9 foreign material, such as hair, insects or other similar
10 adulterants, in harvested cannabis;

11 [~~U.~~] V. "controlling person":

12 (1) means a person that controls a financial
13 or voting interest of ten percent or more of, or an officer or
14 board member of, a cannabis establishment; and

15 (2) does not include a bank or licensed
16 lending institution;

17 [~~V.~~] W. "cultivation" means any activity involving
18 the planting, growing, harvesting, drying, curing, grading or
19 trimming of cannabis;

20 [~~W.~~] X. "department" means the regulation and
21 licensing department;

22 [~~X.~~] Y. "director" means the director of the
23 division;

24 [~~Y.~~] Z. "division" means the cannabis control
25 division of the department;

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1 ~~[Z.]~~ AA. "dry weight basis", when used in the
2 context of regulation of commercial cannabis activity, means a
3 process by which ~~[delta-9-tetrahydrocannabinol]~~
4 tetrahydrocannabinol concentration is measured relative to the
5 aggregate weight of all parts of the plant genus Cannabis,
6 whether growing or not, including the leaves of the plant, the
7 flowers and buds of the plant, the seeds of the plant, the
8 resin of the plant and the stalks of the plant at the point of
9 harvest by a licensee and with no moisture added to the
10 harvested plant;

11 ~~[AA.]~~ BB. "facility" means a building, space or
12 grounds licensed for the production, possession, testing,
13 manufacturing or distribution of cannabis, cannabis extracts or
14 cannabis products;

15 ~~[BB.]~~ CC. "financial consideration" means value
16 that is given or received, directly or indirectly, through
17 sales, barter, trade, fees, charges, dues, contributions or
18 donations;

19 ~~[CC.]~~ DD. "homegrown" or "homemade" means grown or
20 made for purposes that are not dependent or conditioned upon
21 the provision or receipt of financial consideration;

22 ~~[DD.]~~ EE. "household" means a housing unit and
23 includes any place in or around the housing unit at which an
24 occupant of the housing unit produces, manufactures, keeps or
25 stores homegrown cannabis or homemade cannabis products;

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1 ~~[EE.]~~ FF. "immature cannabis plant" means a
2 cannabis plant that has no observable flowers or buds;

3 ~~[FF.]~~ GG. "industry standards" means the prevailing
4 customary standards of business practice in the cannabis
5 industry in jurisdictions within the United States;

6 ~~[GG.]~~ HH. "integrated cannabis microbusiness" means
7 a person that is authorized to conduct one or more of the
8 following:

9 (1) production of cannabis at a single
10 licensed premises; provided that the person shall not possess
11 more than ~~[two hundred]~~ one thousand total mature cannabis
12 plants at any one time;

13 (2) manufacture of cannabis products at a
14 single licensed premises;

15 ~~[(3) sales and transportation of only cannabis
16 products produced or manufactured by that person;~~

17 ~~(4)]~~ (3) operation of only one retail
18 establishment; and

19 ~~[(5)]~~ (4) couriering of cannabis products to
20 qualified patients, primary caregivers or reciprocal
21 participants or directly to consumers;

22 ~~[HH.]~~ II. "licensed premises" means a location that
23 includes:

24 (1) all enclosed public and private areas at
25 the location that are used in the business and includes

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1 offices, kitchens, restrooms and storerooms;

2 (2) all areas outside of a building that are
3 specifically included in the license for the production,
4 manufacturing, wholesale sale, ~~[or]~~ retail sale or consumption
5 of cannabis products; and

6 (3) with respect to a location that is
7 specifically licensed for the production of cannabis outside of
8 a building, the entire unit of land that is created by
9 subsection or partition of land that the licensee owns, leases
10 or has a right to occupy;

11 JJ. "licensee" means the person that is licensed;

12 ~~[HH.]~~ KK. "local jurisdiction" means a
13 municipality, home rule municipality or county;

14 ~~[JJ.]~~ LL. "manufacture" means to compound, blend,
15 extract, infuse, package or otherwise prepare a cannabis
16 product;

17 ~~[KK.]~~ MM. "medical cannabis" means cannabis
18 products used by a qualified patient or reciprocal participant
19 in accordance with the Lynn and Erin Compassionate Use Act;

20 ~~[LL.]~~ NN. "medical cannabis program" means the
21 program created pursuant to the Lynn and Erin Compassionate Use
22 Act;

23 ~~[MM.]~~ OO. "medical cannabis registry" means the
24 system by which the department of health approves or denies
25 applications and issues and renews registry identification

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1 cards for qualified patients;

2 ~~[NN-]~~ PP. "primary caregiver" means a resident of
3 New Mexico who is at least eighteen years of age and who is
4 responsible for managing the well-being of a qualified patient
5 with respect to the medical use of cannabis pursuant to the
6 Lynn and Erin Compassionate Use Act;

7 ~~[OO-]~~ QQ. "public place" means a place to which the
8 general public has access and includes hallways, lobbies and
9 other parts of hotels and apartment houses [~~and hotels~~] that do
10 not constitute rooms or apartments designed for actual
11 residence; highways; streets; schools; places of amusement;
12 parks; playgrounds; and places used in connection with public
13 passenger transportation;

14 ~~[PP-]~~ RR. "qualified patient" means a resident of
15 New Mexico who holds a registry identification card pursuant to
16 the Lynn and Erin Compassionate Use Act;

17 ~~[QQ-]~~ SS. "reciprocal participant" means a person
18 who is not a resident of New Mexico and who holds proof of
19 enrollment by a governmental regulatory authority to
20 participate in the medical cannabis program of another state of
21 the United States, the District of Columbia or a territory or
22 commonwealth of the United States in which the person resides
23 or a person who holds proof of enrollment by a governmental
24 regulatory authority of a New Mexico Indian nation, tribe or
25 pueblo to participate in its medical cannabis program;

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1 ~~[RR.]~~ TT. "retail establishment" means a location
2 at which cannabis products are sold to qualified patients,
3 primary caregivers and reciprocal participants and directly to
4 consumers;

5 ~~[SS.]~~ UU. "superintendent" means the superintendent
6 of regulation and licensing;

7 ~~[TT.]~~ VV. "unprocessed" means unaltered from an
8 original, raw or natural state; and

9 ~~[UU.]~~ WW. "vertically integrated cannabis
10 establishment" means a person that is authorized to act as any
11 of the following:

- 12 (1) a cannabis courier;
- 13 (2) a cannabis manufacturer;
- 14 (3) a cannabis producer; and
- 15 (4) a cannabis retailer."

16 SECTION 4. Section 26-2C-3 NMSA 1978 (being Laws 2021
17 (1st S.S.), Chapter 4, Section 3) is amended to read:

18 "26-2C-3. DIVISION--POWERS AND DUTIES--RULEMAKING--JOINT
19 POWERS AGREEMENT WITH DEPARTMENT OF ENVIRONMENT--ADVISORY
20 COMMITTEE CREATED--MEMBERSHIP--DUTIES.--

21 A. The "cannabis control division" is created in
22 the department to administer the Cannabis Regulation Act and
23 the licensing provisions of the Lynn and Erin Compassionate Use
24 Act and rules promulgated in accordance with those acts. Rules
25 shall be adopted and promulgated as provided in the State Rules
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1 Act.

2 B. No later than January 1, 2022, the division
3 shall promulgate rules that are consistent with industry
4 standards necessary for the division to carry out its duties
5 pursuant to the Cannabis Regulation Act as follows:

6 (1) qualifications and procedures for
7 licensure; provided that qualifications shall be directly and
8 demonstrably related to the operation of the applicable
9 cannabis establishment;

10 (2) security requirements for a cannabis
11 establishment;

12 (3) requirements related to:

13 (a) inspection and monitoring of a
14 cannabis establishment;

15 (b) a cannabis establishment's
16 recordkeeping and tracking of cannabis from seed until sale;

17 (c) prevention of the sale or diversion
18 of cannabis products in commercial cannabis activity to a
19 person under the age of twenty-one;

20 (d) labeling of cannabis products
21 packaged, sold or distributed by a cannabis establishment; and

22 (e) language for labels of cannabis
23 products regarding potential adverse effects;

24 (4) rules providing that:

25 (a) a person who is twenty-one years old

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1 or older shall not purchase more than two ounces of cannabis,
2 sixteen grams of cannabis extract and eight hundred milligrams
3 of edible cannabis at one time; and

4 (b) as to commercial cannabis activity:

5 1) a consumer shall not possess more than two ounces of
6 cannabis, sixteen grams of cannabis extract and eight hundred
7 milligrams of edible cannabis outside the consumer's private
8 residence; 2) any cannabis in excess of the amounts described
9 in Item 1) of this subparagraph shall be stored in the person's
10 residence and shall not be visible from a public place; and 3)
11 the division shall not limit the amount of tetrahydrocannabinol
12 concentration in a cannabis product; provided that the division
13 may adopt requirements for apportionment and packaging of
14 cannabis products;

15 (5) rules on advertising and marketing of
16 cannabis products;

17 (6) rules on how a licensee may display
18 cannabis products for sale;

19 (7) procedures that promote and encourage full
20 participation in the cannabis industry governed by the Cannabis
21 Regulation Act by representatives of communities that have been
22 disproportionately harmed by rates of arrest through the
23 enforcement of cannabis prohibitions in law and policy, rural
24 communities likely to be impacted by cannabis production and
25 agricultural producers from economically disadvantaged

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1 communities;

2 (8) procedures that promote and encourage
3 racial, ethnic, gender and geographic diversity and New Mexico
4 residency among license applicants, licensees and cannabis
5 industry employees;

6 (9) rules for a certification process to
7 identify cannabis products for consumers from integrated
8 cannabis microbusinesses or cannabis producer microbusinesses
9 or owned by representatives of communities that have been
10 disproportionately harmed by rates of arrest through the
11 enforcement of cannabis prohibitions in law and policy and
12 underserved communities that include tribal, acequia, land
13 grant-merced and other rural historic communities;

14 (10) in consultation with the economic
15 development department, development of a technical assistance
16 resource guide for rural New Mexico residents who are seeking
17 to establish vertically integrated cannabis establishments,
18 cannabis producer microbusinesses or integrated cannabis
19 microbusinesses;

20 (11) in consultation with the department of
21 environment, rules to establish:

22 (a) health and safety standards
23 applicable to the research, production and manufacture of
24 cannabis products;

25 (b) standards for food and product

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1 safety applicable to cannabis products; and

2 (c) which additives are approved for and
3 prohibited from inclusion in cannabis products; provided that
4 nicotine shall be prohibited;

5 (12) in consultation with the New Mexico
6 department of agriculture and the department of environment,
7 rules to establish standards for quality control, inspection
8 and testing of cannabis products for potency and contaminants,
9 except for cannabis produced or harvested for research purposes
10 and not for ingestion; provided that all such rules and
11 standards shall be consistent with the rules and standards for
12 testing of medical cannabis products; and

13 (13) in consultation with the state fire
14 marshal's office of the homeland security and emergency
15 management department, rules with regard to health and safety
16 of cannabis establishments.

17 C. No later than January 1, 2022, the division
18 shall promulgate rules that are consistent with industry
19 standards relating to cannabis training and education programs,
20 including:

21 (1) qualifications and procedures for
22 licensure; and

23 (2) physical security, cybersecurity and, if
24 applicable, security of information collected under the federal
25 Health Insurance Portability and Accountability Act of 1996

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1 requirements.

2 D. No later than January 1, 2022, the division
3 shall promulgate rules in consultation with the New Mexico
4 department of agriculture, the department of environment and
5 the office of the state engineer to establish:

- 6 (1) environmental protections; and
7 (2) protocols to ensure licensees' compliance
8 with state and local laws and ordinances governing food and
9 product safety, occupational health and safety environmental
10 impacts] natural resource protection, water use and quality,
11 water supply, hazardous materials, pesticide use and wastewater
12 discharge.

13 E. The department may enter into a joint powers
14 agreement with the department of environment to ensure the
15 health and safety of commercial facilities that produce edible
16 or topical cannabis products.

17 [~~E.~~] F. No later than January 1, 2022, the division
18 shall adopt rules in consultation with the department of health
19 to establish standards and determinations on requirements for
20 reserving cannabis products for sale to qualified patients,
21 primary caregivers and reciprocal participants.

22 [~~F.~~] G. The division shall collect and publish
23 annually on the division's website, and present to the
24 appropriate interim committee of the legislature, a report
25 describing demographic data on license applicants, controlling

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1 persons and employees of cannabis establishments, including
2 race, ethnicity, gender, age, residential status and whether
3 the applicants, persons, employees or the locations where the
4 cannabis products are produced, manufactured, sold, tested or
5 researched are located in an underserved rural community,
6 including tribal, acequia, land grant-merced or other rural
7 historic communities.

8 H. The division shall receive and maintain
9 information and data from the department of public safety and
10 the federal bureau of investigation related to licensing
11 disqualifications based on criminal history.

12 ~~[G-]~~ I. The "cannabis regulatory advisory
13 committee" shall be created no later than September 1, 2021.
14 The committee shall advise the division on the development of
15 rules pursuant to the Cannabis Regulation Act, including best
16 practices and the promotion of economic and cultural diversity
17 in licensing and employment opportunities and protection of
18 public health and safety while ensuring a regulated environment
19 for commercial cannabis activity that does not impose
20 unreasonable barriers that would perpetuate, rather than reduce
21 and eliminate, the illicit market for cannabis. A person
22 appointed to the cannabis regulatory advisory committee shall
23 not hold any ownership interest or investment in a licensed
24 person pursuant to the Cannabis Regulation Act; provided that
25 the superintendent may appoint a person who holds an ownership

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1 interest in a licensed person as a nonvoting member. The
2 committee shall consist of the following members:

3 (1) the chief public defender or the chief
4 public defender's designee;

5 (2) a district attorney appointed by the New
6 Mexico district attorney association;

7 (3) a municipal police chief appointed by the
8 New Mexico association of chiefs of police;

9 (4) a county sheriff appointed by the
10 executive director of the New Mexico association of counties;
11 and

12 (5) one member for each of the following
13 groups or professional qualifications, appointed by the
14 superintendent:

15 (a) a cannabis policy advocacy
16 organization;

17 (b) a labor organization;

18 (c) a qualified patient;

19 (d) a state or local agency with
20 relevant expertise as the director and the superintendent deem
21 appropriate;

22 (e) an Indian nation, tribe or pueblo
23 with relevant expertise as the director and the superintendent
24 deem appropriate;

25 (f) expertise in public health;

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- 1 (g) expertise in regulating commercial
2 activity for adult-use intoxicating substances;
- 3 (h) expertise and experience in cannabis
4 laboratory science;
- 5 (i) expertise in environmental science;
- 6 (j) expertise in small business
7 development;
- 8 (k) expertise in water resources;
- 9 (l) expertise in other relevant areas as
10 the director and the superintendent deem appropriate; and
- 11 (m) previous experience as a cannabis
12 retailer, cannabis producer or cannabis manufacturer and who is
13 a nonvoting member.

14 [~~H.~~] J. The cannabis regulatory advisory committee
15 shall elect from among its members a chair and such other
16 officers as it deems necessary. The committee shall meet at
17 the call of the chair, the director or the superintendent. A
18 majority of members currently serving constitutes a quorum for
19 the conduct of business. Members shall serve at the pleasure
20 of the superintendent.

21 [~~F.~~] K. Public voting members of the cannabis
22 regulatory advisory committee are entitled to receive per diem
23 and mileage as provided for state employees pursuant to the Per
24 Diem and Mileage Act and shall receive no other compensation,
25 perquisite or allowance.

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1 [~~J~~] L. The division shall:

2 (1) monitor the supply and demand of cannabis
3 products produced in New Mexico by licensees and present
4 annually to the appropriate interim committee of the
5 legislature the impacts of supply on illicit cannabis products
6 markets and adequate supply of cannabis products for qualified
7 patients and reciprocal participants;

8 (2) request the department of public safety to
9 enforce the provisions of the Cannabis Regulation Act as deemed
10 necessary; and

11 (3) undertake studies and conduct courses of
12 instruction for division employees that will improve the
13 operations of the division and advance its purposes."

14 SECTION 5. Section 26-2C-5 NMSA 1978 (being Laws 2021
15 (1st S.S.), Chapter 4, Section 5) is amended to read:

16 "26-2C-5. DEPARTMENT OF HEALTH--DUTIES--TRANSFER OF
17 LICENSING DUTIES.--Except for administration of the medical
18 cannabis registry, the power, duty and authority of the
19 department of health related to the medical cannabis program
20 shall be transferred to the division on [~~the effective date of~~
21 ~~the Cannabis Regulation Act~~] June 29, 2021."

22 SECTION 6. Section 26-2C-6 NMSA 1978 (being Laws 2021
23 (1st S.S.), Chapter 4, Section 6) is amended to read:

24 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--
25 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR

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1 MEDICAL PROGRAM.--

2 A. The division shall regulate and administer and
3 may collect reasonable administrative fees in connection with
4 the administration of:

5 (1) commercial cannabis activity and licensing
6 related to commercial cannabis activity;

7 (2) the medical cannabis program, except for
8 the medical cannabis registry; and

9 (3) all aspects of cannabis relating to
10 cannabis training and education programs.

11 B. The division shall follow the provisions of the
12 Uniform Licensing Act when licensing or permitting the
13 following:

14 (1) cannabis consumption areas;

15 (2) cannabis couriers;

16 (3) cannabis manufacturers;

17 (4) cannabis producer microbusinesses;

18 (5) cannabis producers;

19 (6) cannabis research laboratories;

20 (7) cannabis retailers;

21 (8) cannabis servers;

22 (9) cannabis testing laboratories;

23 (10) cannabis training and education programs;

24 (11) integrated cannabis microbusinesses; and

25 (12) vertically integrated cannabis

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1 establishments.

2 C. The division shall include a clear designation
3 on all licenses and permits that indicates whether the license
4 or permit is for medical cannabis activity, commercial cannabis
5 activity or both or for cannabis training and education
6 programs.

7 D. The division shall issue a license to a cannabis
8 retailer applicant at a discount if the applicant provides
9 documentation of an agreement to accept cannabis products on
10 consignment from a cannabis producer microbusiness or an
11 integrated cannabis microbusiness licensed pursuant the
12 Cannabis Regulation Act.

13 E. A license is valid for twelve months from the
14 date the license is issued and may be renewed annually, except
15 that a license issued for a cannabis training and education
16 program is valid until terminated by the licensee or suspended
17 or revoked by the division.

18 F. The director shall not renew a license issued
19 pursuant to the provisions of the Cannabis Regulation Act until
20 the director receives notification from the secretary of
21 taxation and revenue or the secretary's designee that on a
22 certain date:

23 (1) the licensee is not a delinquent taxpayer;

24 and

25 (2) there are no unfiled tax returns due from

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1 engaging in business authorized by the license.

2 G. No license shall be transferable or assignable
3 from a licensee to another person. The division shall not
4 allow a person that is licensed as any type of cannabis
5 establishment other than a cannabis research laboratory to
6 hold, directly or indirectly, a cannabis testing laboratory
7 license.

8 H. Except for verification of age, the division
9 shall not require licensees to request information from
10 consumers or impose any residency requirement upon consumers
11 for the purchase of cannabis products pursuant to the
12 commercial cannabis activity authorized by the Cannabis
13 Regulation Act. The division may require licensees to request
14 information from consumers for the purchase of cannabis
15 products pursuant to the medical cannabis program, which may
16 include the presentation of legal identification issued by an
17 authorized governmental entity or other documents as required
18 by the medical cannabis program.

19 I. Except as otherwise provided in the Cannabis
20 Regulation Act, the division shall not limit the number of
21 licensed premises a licensee may occupy or operate under a
22 license. Multiple licensees may occupy a single licensed
23 premises, and the division shall not place any restriction or
24 prohibition on the number of licensees occupying a single
25 licensed premises or on the number of licensed premises of a

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1 cannabis establishment except as otherwise specifically
2 provided for by the Cannabis Regulation Act. Except as
3 otherwise provided in this subsection, a licensee may conduct
4 any lawful activity or any combination of lawful activities at
5 a licensed premises [~~provided that the licensee is not a~~
6 ~~licensee pursuant to the Liquor Control Act~~]. Cannabis and
7 alcoholic beverages shall not be sold or consumed on the same
8 premises.

9 J. Smoking in a cannabis consumption area on a
10 licensed premises shall be allowed only if the cannabis
11 consumption area is in a designated smoking area or in a
12 standalone building from which smoke does not infiltrate other
13 indoor workplaces or other indoor public places where smoking
14 is otherwise prohibited pursuant to the Dee Johnson Clean
15 Indoor Air Act.

16 [~~J.~~] K. Licensees are specifically allowed to
17 conduct other licensed activities, including activities
18 pursuant to the Hemp Manufacturing Act [~~except for sales of~~
19 ~~alcoholic beverages~~] and the Liquor Control Act, except that a
20 licensee that also holds a license pursuant to the Liquor
21 Control Act shall not co-locate any cannabis- and alcohol-
22 related licensed activities.

23 [~~K.~~] L. A person properly licensed and in good
24 standing pursuant to the Lynn and Erin Compassionate Use Act on
25 the effective date of the Cannabis Regulation Act may continue

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1 to operate under that license for medical cannabis until
2 comparable licenses for commercial cannabis activity are
3 available. The division shall determine when retail sales of
4 commercial cannabis products begin, but no later than April 1,
5 2022. A facility of such a licensee, upon issuance of the
6 applicable cannabis establishment license, shall constitute
7 licensed premises of the licensee and the licensee shall be
8 entitled to continued and uninterrupted operations of the
9 licensed premises. As to activity under the medical cannabis
10 program, the licensee shall continue to operate under rules
11 promulgated for the medical cannabis program until the division
12 promulgates rules for medical cannabis activity, except that a
13 qualified patient, a primary caregiver and a reciprocal
14 participant shall not be prohibited from purchasing and
15 obtaining cannabis products pursuant to the medical cannabis
16 program.

17 ~~[E-]~~ M. To address a shortage of cannabis supply in
18 the medical cannabis program, the division may:

19 (1) require all cannabis establishment
20 licensees to ensure that at least ten percent of their cannabis
21 in stock on a monthly basis is designated for sale to qualified
22 patients, primary caregivers and reciprocal participants;

23 (2) initially take reasonable measures to
24 expeditiously incentivize increased production of cannabis
25 plants to remedy a shortage of cannabis supply in the medical

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1 cannabis program;

2 (3) after having first exhausted measures to
3 increase production of cannabis plants to address the shortage
4 of cannabis supply in the medical cannabis program, exclude
5 commercial cannabis activity from the scope of new licenses
6 issued to initial applicants for a vertically integrated
7 cannabis establishment, cannabis producer, integrated cannabis
8 microbusiness, cannabis producer microbusiness or cannabis
9 manufacturer license, which limitation shall be in force for a
10 period of at least six months; and

11 (4) require licensees who are licensed to
12 produce cannabis to produce a specified quota of mature
13 cannabis plants to be designated for use in the medical
14 cannabis program; provided that:

15 (a) the division may require a licensee
16 to devote no more than twenty-five percent of the licensee's
17 cultivated cannabis plants on a monthly basis for use in the
18 medical cannabis program; and

19 (b) the division may require specific
20 tracking of cannabis plants.

21 ~~[M.]~~ N. As used in this section, "shortage of
22 cannabis supply in the medical cannabis program" means that the
23 average number of cannabis plants in production in the medical
24 cannabis program per qualified patient after the effective date
25 of the Cannabis Regulation Act is substantially less than the

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1 average number of cannabis plants in production in the medical
2 cannabis program per qualified patient as of the effective date
3 of the Cannabis Regulation Act, where:

4 (1) the average number of cannabis plants in
5 production after the effective date of the Cannabis Regulation
6 Act is measured over a period of three consecutive months; and

7 (2) the average number of cannabis plants in
8 production as of the effective date of the Cannabis Regulation
9 Act is measured over a period of three consecutive months
10 immediately preceding the effective date of the Cannabis
11 Regulation Act.

12 [N.] O. A person who is a member of the New Mexico
13 senate or the New Mexico house of representatives on the
14 effective date of the Cannabis Regulation Act shall not apply
15 for or be granted a license to engage in any commercial
16 cannabis activity prior to July 1, 2026."

17 SECTION 7. Section 26-2C-7 NMSA 1978 (being Laws 2021
18 (1st S.S.), Chapter 4, Section 7) is amended to read:

19 "26-2C-7. COMMERCIAL CANNABIS ACTIVITY LICENSING--
20 APPLICATION--ISSUANCE AND DENIAL OF A LICENSE--CRIMINAL HISTORY
21 RECORDS CHECKS.--

22 A. A license issued pursuant to the Cannabis
23 Regulation Act shall not be subject to execution, attachment, a
24 security transaction, liens or receivership.

25 B. In carrying out its commercial cannabis activity

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1 licensing duties, the division shall:

2 (1) no later than September 1, 2021, accept
3 and begin processing license applications for cannabis
4 producers, cannabis producer microbusinesses and any person
5 properly licensed and in good standing as a licensed cannabis
6 producer pursuant to the Lynn and Erin Compassionate Use Act;

7 (2) no later than January 1, 2022, accept and
8 begin processing license applications for all license types;

9 (3) require as a condition of licensing
10 pursuant to the Cannabis Regulation Act that the applicant
11 demonstrate that the applicant has a legal right to a
12 commercial water supply, water rights or another source of
13 water sufficient to meet the water needs as determined by the
14 division related to the license as evidenced by documentation
15 from the office of the state engineer of a valid water right or
16 from a water provider that the use of water for cannabis
17 production is compliant with that water provider's rules;

18 (4) if an applicant applies for a cannabis
19 producer license or a cannabis manufacturer license, in
20 addition to the requirements in Paragraph (3) of this
21 subsection, require that the applicant submit a plan to use, or
22 demonstrate to the division that the applicant cannot feasibly
23 use, energy and water reduction opportunities, including:

24 (a) for a cannabis producer, drip
25 irrigation and water collection;

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1 (b) natural lighting and energy
2 efficiency measures; and
3 (c) renewable energy generation; and
4 (5) allow commercial cannabis activity retail
5 sales no later than April 1, 2022 and otherwise allow
6 activities authorized by the Cannabis Regulation Act or the
7 medical cannabis program as of the time of licensure of a
8 licensee, so long as a minimum of twenty-five percent of
9 monthly cannabis sales are to qualified patients, primary
10 caregivers and reciprocal participants or sold wholesale to
11 other licensees that meet or exceed the twenty-five percent
12 sales to qualified patients, primary caregivers and reciprocal
13 participants until December 31, 2022.

14 C. An application for licensure shall be signed by
15 the applicant or, if the applicant is a corporation or other
16 legal entity, signed by an officer or other person with legal
17 authority to sign documents for the corporation or other legal
18 entity. Once the division deems an application complete, the
19 division has ninety days to issue or deny a license
20 application.

21 D. The division shall deny an application for an
22 initial license or renewal if:

- 23 (1) the application does not include
24 information required by the division; or
25 (2) the applicant or a controlling person of

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1 the applicant has been convicted of an offense that is
2 substantially related to the qualifications, functions or
3 duties of the applicant's business; provided that if the
4 division determines that the applicant or controlling person is
5 otherwise qualified for a license and that issuing a license to
6 the applicant would not compromise public safety, the division
7 shall conduct a thorough review of the conviction, including
8 the nature of the offense, surrounding circumstances and any
9 evidence of the applicant's or controlling person's
10 rehabilitation following the conviction, and based on that
11 review, determine whether the applicant should be issued a
12 license.

13 E. For purposes of Subsection D of this section,
14 the following are considered substantially related to the
15 qualifications, functions or duties of a person seeking a
16 license:

17 (1) a felony conviction involving fraud,
18 deceit or embezzlement;

19 (2) a felony conviction for hiring, employing
20 or otherwise using a person younger than eighteen years of age
21 to:

22 (a) prepare for sale, transport or carry
23 a controlled substance; or

24 (b) sell, give away or offer to sell a
25 controlled substance to any person; and

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1 (3) any other offense as determined by the
2 division.

3 F. A conviction for which the related sentence,
4 including any term of probation or parole, is completed for the
5 possession, use, manufacture, distribution or dispensing or the
6 possession with the intent to manufacture, distribute or
7 dispense cannabis is not considered substantially related to
8 the qualifications, functions or duties of a person seeking a
9 license and shall not be the sole ground on which an
10 application is denied. The division shall comply with the
11 provisions of the Criminal Offender Employment Act.

12 G. The division shall deny an application if an
13 applicant, a controlling person or the premises for which a
14 license is sought does not qualify for licensure pursuant to
15 the Cannabis Regulation Act.

16 H. The division shall not license a person who has
17 had a license that was issued pursuant to the Cannabis
18 Regulation Act or the Lynn and Erin Compassionate Use Act
19 revoked by the division or the department of health in the
20 three years immediately preceding the date on which the person
21 filed a new application.

22 I. Unless otherwise provided in the Cannabis
23 Regulation Act, a person whose license has been revoked may
24 reapply for a license after a period of three years. The
25 division may consider all of the circumstances resulting in the

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1 revocation in determining whether to issue a new license.

2 ~~[J. The division shall adopt rules providing for~~
3 ~~submission of an applicant's fingerprints to the federal bureau~~
4 ~~of investigation to conduct a national criminal history~~
5 ~~background check and to the department of public safety to~~
6 ~~conduct a state criminal history check for the following~~
7 ~~licensees:~~

8 ~~(1) cannabis manufacturer;~~

9 ~~(2) cannabis producer;~~

10 ~~(3) cannabis producer microbusiness;~~

11 ~~(4) cannabis research laboratory;~~

12 ~~(5) cannabis retailer;~~

13 ~~(6) cannabis testing laboratory;~~

14 ~~(7) integrated cannabis microbusiness; and~~

15 ~~(8) vertically integrated cannabis~~

16 ~~establishment.~~

17 ~~K. The division shall conduct national criminal~~
18 ~~history background checks and state criminal history checks on~~
19 ~~the following:~~

20 ~~(1) if an applicant is a limited partnership,~~
21 ~~each partner of the limited partnership;~~

22 ~~(2) if the applicant is a limited liability~~
23 ~~company, each member of the limited liability company;~~

24 ~~(3) if the applicant is a corporation, each~~
25 ~~director and officer of the corporation; and~~

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1 ~~(4) any controlling person of the applicant.]~~

2 J. To investigate the suitability of an applicant
3 for licensure for the medical cannabis program or commercial
4 cannabis activity, the division shall have access to criminal
5 history records information furnished by the department of
6 public safety and the federal bureau of investigation, subject
7 to any restrictions imposed by federal law.

8 K. An applicant for a license to conduct commercial
9 cannabis activity shall undergo a state and federal criminal
10 history records check, and the applicant shall submit an
11 electronic set of fingerprints to the department of public
12 safety for that purpose. The department of public safety shall
13 conduct a check of state records and forward the fingerprints
14 to the federal bureau of investigation for a national criminal
15 history records check to determine the existence and content of
16 a record of convictions and arrests in this state or other law
17 enforcement jurisdictions and to generate a criminal history
18 records check in accordance with rules of the department of
19 public safety and regulations of the federal bureau of
20 investigation. The department of public safety shall review
21 the information obtained from the criminal history records
22 check and shall compile and provide that information to the
23 division. The division shall use the information resulting
24 from the fingerprint-based criminal history records check to
25 investigate and determine whether an applicant is qualified to

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1 hold a cannabis license.

2 L. ~~[Arrest record]~~ Criminal history information
3 received from the department of public safety or the federal
4 bureau of investigation ~~[and the department of public safety]~~
5 shall be confidential, shall not be considered a public record
6 pursuant to the Public Records Act and shall not be disclosed
7 to ~~[persons not]~~ anyone other than public employees directly
8 involved in the decision affecting the applicant.

9 ~~[M. Electronic live fingerprint scans may be used~~
10 ~~when conducting criminal history background checks.]"~~

11 SECTION 8. Section 26-2C-8 NMSA 1978 (being Laws 2021
12 (1st S.S.), Chapter 4, Section 8) is amended to read:

13 "26-2C-8. LICENSEES--DISCIPLINARY ACTIONS--SANCTIONS--
14 CIVIL PENALTY.--

15 A. A violation of the provisions of the Cannabis
16 Regulation Act or rules promulgated in accordance with that act
17 by a licensee or permittee is grounds for disciplinary action.

18 B. The division may:
19 (1) impose an intermediate sanction
20 established by rule;
21 (2) impose a directed plan of correction;
22 (3) assess a civil monetary penalty
23 established by rule; provided that a civil monetary penalty
24 shall not exceed ten thousand dollars (\$10,000) per violation;
25 and provided further that penalties and interest recovered

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1 pursuant to the Cannabis Regulation Act on behalf of the state
2 shall be remitted to the state treasurer for deposit in the
3 current school fund; or

4 (4) suspend or revoke the license.

5 C. Repeated violations of serious and substantial
6 rules pertaining to public health and safety may result in
7 license suspension.

8 [~~E.~~] D. The division shall promulgate rules
9 specifying the criteria for imposition of sanctions and civil
10 monetary penalties.

11 [~~D.~~] E. The provisions of this section do not apply
12 to occupational health and safety rules promulgated pursuant to
13 Section [~~3 of the Cannabis Regulation Act~~] 26-2C-3 NMSA 1978.

14 [~~E.~~] F. A person aggrieved by an action taken by
15 the division pursuant to this section may request and receive a
16 hearing with the superintendent for the purpose of reviewing
17 the action in accordance with the Uniform Licensing Act."

18 SECTION 9. Section 26-2C-10 NMSA 1978 (being Laws 2021
19 (1st S.S.), Chapter 4, Section 10) is amended to read:

20 "26-2C-10. CANNABIS TRAINING AND EDUCATION PROGRAM
21 LICENSING [~~SANCTIONS~~]--MANDATORY EDUCATION--PROVIDERS.--

22 A. The division shall begin licensing cannabis
23 training and education programs no later than January 1, 2022.

24 [~~B. The division may suspend a license for repeated~~
25 ~~violations of the same serious and substantial rule promulgated~~

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1 ~~pursuant to the Cannabis Regulation Act pertaining to public~~
2 ~~health and safety.]~~

3 B. The division may provide by rule for mandatory
4 education for licensees and employees of licensees.
5 Certificates of completion of mandatory education shall be
6 maintained by each licensee for employees and open to
7 inspection by the division. The division may contract with a
8 training and education program or other qualified training
9 provider to provide mandatory education."

10 SECTION 10. Section 26-2C-11 NMSA 1978 (being Laws 2021
11 (1st S.S.), Chapter 4, Section 11) is amended to read:

12 "26-2C-11. CANNABIS SERVER PERMITS--CANNABIS SERVERS--
13 MINIMUM AGE--CERTAIN SERVERS GRANDFATHERED--PERMIT REQUIRED--
14 APPLICATIONS--EDUCATION PROGRAM APPROVAL REQUIRED--ISSUANCE OR
15 DENIAL OF A PERMIT OR APPROVAL--PENALTIES.--

16 A. The division shall promulgate rules consistent
17 with this section and industry standards for issuance of [a]
18 cannabis server [~~permit~~] permits and licenses for [a] cannabis
19 consumption [~~area~~] areas. A cannabis research laboratory or an
20 employee of the laboratory is not required to obtain or possess
21 a cannabis server permit while performing activities authorized
22 pursuant to a cannabis research laboratory.

23 B. Cannabis servers must be twenty-one years of age
24 or older, except that if a licensee employed a cannabis server
25 younger than twenty-one years of age before the effective date

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1 of this 2022 act, that server may continue employment in the
2 same position with that licensee. A licensee that employs a
3 cannabis server younger than twenty-one years of age who is not
4 grandfathered as provided in this subsection is subject to
5 disciplinary action by the division. The division shall issue
6 cannabis server permits to persons twenty-one years of age or
7 older who satisfy the requirements of this section and rules
8 promulgated by the division. An applicant shall provide proof
9 of satisfactory completion of a program provided by a cannabis
10 server permit education provider approved by the division. A
11 person shall not be employed as a cannabis server on a licensed
12 premises unless that person obtains a cannabis server permit
13 within thirty days of employment.

14 C. The cannabis server education program curriculum
15 shall include the following subjects:

16 (1) the effect cannabis products have on the
17 body and behavior, including the effect on a person's ability
18 to operate a motor vehicle when under the influence of cannabis
19 products;

20 (2) the effect cannabis products have on a
21 person when used in combination with alcohol or legal or
22 illegal drugs;

23 (3) state laws concerning cannabis licensure,
24 cannabis liability issues and driving under the influence of
25 cannabis;

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1 (4) methods of recognizing problem cannabis
2 product users and techniques for intervening with problem
3 cannabis product users;

4 (5) methods of identifying false driver's
5 licenses and other documents used as evidence of age and
6 identity to prevent the sale of cannabis products to a person
7 under twenty-one years of age pursuant to the Cannabis
8 Regulation Act; and

9 (6) harm reduction practices related to
10 cannabis use.

11 D. A cannabis server permit is the property of the
12 state and shall be immediately returned to the division upon
13 suspension or revocation or denial of renewal of a permit.

14 E. Cannabis server permits shall be valid for a
15 period of three years from the date the permit is issued and
16 may be renewed upon providing proof that the permit holder has
17 successfully completed up to four and one-half hours of
18 continuing education and an examination as determined by the
19 division.

20 F. In addition to any other penalties provided by
21 law, the following penalties may be imposed for sales, service
22 or dispensing a cannabis product to a person under twenty-one
23 years of age in violation of the provisions of the Cannabis
24 Regulation Act or rules of the division:

25 (1) the division may suspend a cannabis server

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1 permit for a period of thirty days if the director finds that
2 the cannabis server is guilty of a first offense of selling,
3 serving or dispensing a cannabis product to a person under
4 twenty-one years of age;

5 (2) the division shall suspend a cannabis
6 server permit for a period of one year when the division finds
7 that the cannabis server is guilty of a second offense of
8 selling, serving or dispensing a cannabis product to a person
9 under twenty-one years of age in violation of the Cannabis
10 Regulation Act arising separately from the incident giving rise
11 to the cannabis server's first offense;

12 (3) the division shall permanently revoke a
13 cannabis server permit when it finds that the cannabis server
14 is guilty of a third offense of selling, serving or dispensing
15 a cannabis product to a person under twenty-one years of age in
16 violation of the Cannabis Regulation Act arising separately
17 from the incidents giving rise to the cannabis server's first
18 and second offenses; and

19 (4) no person whose cannabis server permit is
20 suspended pursuant to the provisions of this section shall
21 offer, sell, serve or dispense a cannabis product as part of
22 commercial cannabis activity in a cannabis consumption area
23 during the period of suspension."

24 SECTION 11. Section 7-1-6.68 NMSA 1978 (being Laws 2021
25 (1st S.S.), Chapter 4, Section 50) is amended to read:

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1 "7-1-6.68. DISTRIBUTION--CANNABIS EXCISE TAX--
2 MUNICIPALITIES AND COUNTIES.--

3 A. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to each municipality, subject to any
5 increase or decrease made pursuant to Section 7-1-6.15 NMSA
6 1978, in an amount equal to thirty-three and thirty-three
7 hundredths percent of the net receipts attributable to the
8 cannabis excise tax from [~~cannabis retailers~~] business
9 locations within the municipality as reported pursuant to
10 Section 7-42-4 NMSA 1978.

11 B. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to each county in an amount equal to thirty-
13 three and thirty-three hundredths percent of the net receipts
14 attributable to the cannabis excise tax from [~~cannabis~~
15 ~~retailers~~] business locations within the county area of the
16 county as reported pursuant to Section 7-42-4 NMSA 1978.

17 C. The department may deduct an amount not to
18 exceed three percent of the distributions made pursuant to this
19 section for the reasonable costs for administering the
20 distributions.

21 D. As used in this section, "county area" means
22 that portion of a county located outside the boundaries of any
23 municipality."

24 SECTION 12. Section 7-42-4 NMSA 1978 (being Laws 2021
25 (1st S.S.), Chapter 4, Section 46) is amended to read:

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1 "7-42-4. DATE PAYMENT DUE--BUSINESS LOCATION
2 REPORTING.--

3 A. The cannabis excise tax is to be paid on or
4 before the twenty-fifth day of the month following the month in
5 which the taxable sale occurs.

6 B. A cannabis retailer that sells cannabis products
7 in this state shall report the sale to the proper business
8 location at the following locations:

9 (1) if the cannabis product is received by the
10 purchaser at the New Mexico business location of the cannabis
11 retailer, the location of the cannabis retailer;

12 (2) if the cannabis product is not received by
13 the purchaser at a business location of the cannabis retailer,
14 the location indicated by instructions for delivery to the
15 purchaser, or the purchaser's donee, when known to the cannabis
16 retailer;

17 (3) if Paragraphs (1) and (2) of this
18 subsection do not apply, the location indicated by an address
19 for the purchaser available from the business records of the
20 cannabis retailer that are maintained in the ordinary course of
21 business; provided that use of the address does not constitute
22 bad faith;

23 (4) if Paragraphs (1) through (3) of this
24 subsection do not apply, the location for the purchaser
25 obtained during consummation of the sale, including the address

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1 of a purchaser's payment instrument if no other address is
2 available; provided that use of this address does not
3 constitute bad faith; or
4 (5) if Paragraphs (1) through (4) of this
5 subsection do not apply, including a circumstance in which the
6 cannabis retailer is without sufficient information to apply
7 those standards, the location from which the cannabis product
8 is shipped or transmitted."

9 SECTION 13. Section 53-8-48 NMSA 1978 (being Laws 1975,
10 Chapter 217, Section 48, as amended) is amended to read:

11 "53-8-48. DISTRIBUTION OF ASSETS.--

12 A. Except as provided in Subsection B of this
13 section, the assets of a corporation in the process of
14 dissolution shall be applied and distributed as follows:

15 ~~[A.]~~ (1) all liabilities and obligations of
16 the corporation shall be paid and discharged, or adequate
17 provision shall be made ~~[therefor]~~ for payment and discharge;

18 ~~[B.]~~ (2) assets held by the corporation upon
19 condition requiring return, transfer or conveyance, which
20 condition occurs by reason of the dissolution, shall be
21 returned, transferred or conveyed in accordance with such
22 requirements;

23 ~~[C.]~~ (3) assets received and held by the
24 corporation subject to limitations permitting their use only
25 for charitable, religious, eleemosynary, benevolent,

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[bracketed material] = delete

1 educational or similar purposes, but not held upon a condition
2 requiring return, transfer or conveyance by reason of the
3 dissolution, shall be transferred or conveyed to one or more
4 nonprofit domestic or foreign corporations, nonprofit societies
5 or nonprofit organizations engaged in activities substantially
6 similar to those of the dissolving corporation, pursuant to a
7 plan of distribution adopted as provided in the Nonprofit
8 Corporation Act;

9 ~~[D-]~~ (4) other assets, if any, shall be
10 distributed in accordance with the provisions of the articles
11 of incorporation or the bylaws, but in no event may any member,
12 former member, director, former director, officer or former
13 officer receive directly or indirectly any distribution or
14 portion of a distribution of any assets; and

15 ~~[E-]~~ (5) any remaining assets may be
16 distributed to such persons, nonprofit societies, nonprofit
17 organizations or nonprofit domestic or foreign corporations
18 whether for profit or nonprofit as may be specified in a plan
19 of distribution adopted as provided in the Nonprofit
20 Corporation Act.

21 B. A nonprofit corporation that was incorporated in
22 order to qualify for a license as a licensed nonprofit producer
23 pursuant to department of health rules under the Lynn and Erin
24 Compassionate Use Act may dissolve itself and incorporate as a
25 for-profit corporation pursuant to the Business Corporation

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1 Act. The assets of the nonprofit corporation shall be applied
2 and distributed as follows if the corporation did not have a
3 federal tax exemption as a nonprofit corporation:

4 (1) all liabilities and obligations of the
5 corporation shall be paid and discharged or adequate provision
6 shall be made for payment and discharge;

7 (2) assets held by the corporation upon
8 condition requiring return, transfer or conveyance, which
9 condition occurs by reason of the dissolution, shall be
10 returned, transferred or conveyed in accordance with such
11 requirements;

12 (3) assets received and held by the
13 corporation subject to limitations permitting their use only
14 for charitable, religious, eleemosynary, benevolent,
15 educational or similar purposes, but not held upon a condition
16 requiring return, transfer or conveyance by reason of the
17 dissolution, shall be transferred or conveyed to one or more
18 nonprofit domestic corporations, nonprofit societies or
19 nonprofit organizations engaged in activities substantially
20 similar to those of the dissolving corporation, pursuant to a
21 plan of distribution adopted as provided in the Nonprofit
22 Corporation Act;

23 (4) any remaining assets shall be distributed
24 to the new for-profit corporation according to a plan of
25 distribution adopted as provided in the Nonprofit Corporation

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1 Act; and

2 (5) in no event shall any member, former
3 member, director, former director, officer or former officer
4 receive directly or indirectly any distribution or portion of a
5 distribution of any assets of the nonprofit corporation."

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