

**NOT PROOFED – FOR DISCUSSION PURPOSES ONLY**

AN ACT

RELATING TO CANNABIS REGULATION; CHANGING DEFINITIONS;  
PROVIDING POWERS AND DUTIES; PROVIDING FOR LICENSE MORATORIA OR  
INCREASE IN RESPONSE TO MARKET CONDITIONS; PROVIDING PROCEDURES  
FOR BACKGROUND CRIMINAL HISTORY CHECKS; REMOVING THE  
PROHIBITION AGAINST A PERSON OWNING BOTH A CANNABIS LICENSE AND  
A LICENSE UNDER THE LIQUOR CONTROL ACT; PROHIBITING CO-LOCATION  
OF CANNABIS ACTIVITIES AND ALCOHOLIC BEVERAGE SALES OR SERVICE  
ACTIVITIES TO THE PUBLIC OR MEMBERS; PROVIDING FOR  
CONFIDENTIALITY OF ENFORCEMENT INVESTIGATIONS; PROVIDING  
PROCESSES AND PROCEDURES FOR TAGGING AND DESTRUCTION OF  
CANNABIS PRODUCTS UNSUITABLE FOR CONSUMPTION; ELIMINATING STEP  
PROGRESSION OF CANNABIS EXCISE TAX; ALLOWING FOR CONVERSION  
FROM NONPROFIT TO FOR-PROFIT STATUS FOR LICENSEES; CHANGING  
LICENSING FOR REGISTRATION OF CANNABIS TRAINING AND EDUCATION  
PROGRAMS; CREATING CRIMES; PRESCRIBING PENALTIES; REPEALING A  
DELAYED REPEAL; AMENDING, REPEALING AND ENACTING SECTIONS OF  
THE NMSA 1978.

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

**SECTION 1.** Section 7-42-3 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 45) is amended to read:

"7-42-3. CANNABIS EXCISE TAX.--

A. An excise tax is imposed on a cannabis retailer that sells cannabis products in this state. The tax imposed by this section may be referred to as the "cannabis excise tax".

B. The rate of the cannabis excise tax shall be [~~at the following rates and shall be~~] twelve percent applied to the price paid for a cannabis product

- ~~[(1) prior to July 1, 2025, twelve percent;~~
- ~~—————(2) beginning July 1, 2025 and prior to July 1, 2026, thirteen percent;~~
- ~~—————(3) beginning July 1, 2026 and prior to July 1, 2027, fourteen percent;~~
- ~~—————(4) beginning July 1, 2027 and prior to July 1, 2028, fifteen percent;~~
- ~~—————(5) beginning July 1, 2028 and prior to July 1, 2029, sixteen percent;~~
- ~~—————(6) beginning July 1, 2029 and prior to July 1, 2030, seventeen percent; and~~
- ~~—————(7) beginning July 1, 2030, eighteen percent].~~

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C. The cannabis excise tax shall not apply to retail sales of medical cannabis products sold to a qualified patient or a primary caregiver who presents a registry identification card issued pursuant to the Lynn and Erin Compassionate Use Act or a reciprocal participant who presents similar proof from another state, the District of Columbia or a territory or commonwealth of the United States at the time of the sale."

**SECTION 2.** Section 14-2-1 NMSA 1978 (being Laws 1947, Chapter 130, Section 1, as amended) is amended to read:

"14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--  
Every person has a right to inspect public records of this state except:

A. records pertaining to physical or mental examinations and medical treatment of persons confined to an institution;

B. letters of reference concerning employment, licensing or permits;

C. letters or memoranda that are matters of opinion in personnel files or students' cumulative files;

D. portions of law enforcement records as provided in Section 14-2-1.2 NMSA 1978;

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E. as provided by the Confidential Materials Act;

F. trade secrets;

G. attorney-client privileged information;

H. long-range or strategic business plans of public hospitals discussed in a properly closed meeting;

I. tactical response plans or procedures prepared for or by the state or a political subdivision of the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack;

J. information concerning information technology systems, the publication of which would reveal specific vulnerabilities that compromise or allow unlawful access to such systems; provided that this subsection shall not be used to restrict requests for:

(1) records stored or transmitted using information technology systems;

(2) internal and external audits of information technology systems, except for those portions that would reveal ongoing vulnerabilities that compromise or allow unlawful access to such systems; or

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(3) information to authenticate or validate records received pursuant to a request fulfilled pursuant to the Inspection of Public Records Act;

K. submissions in response to a competitive grant, land lease or scholarship and related scoring materials and evaluation reports until finalists are publicly named or the award is announced; ~~and~~

L. information developed or obtained by the cannabis control division of the regulation and licensing department during an enforcement investigation; and

~~[E.]~~ M. as otherwise provided by law."

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

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

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

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

~~[A. "advertisement":~~

~~(1) means a statement or a depiction that is~~

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~~intended to induce the purchase of cannabis products and that is displayed in printed material or on a sign or other outdoor display or presented in a radio, television or other media broadcast or in digital media; and~~

~~\_\_\_\_\_ (2) does not include:~~

~~\_\_\_\_\_ (a) a sign or outdoor display or other statement permanently affixed to a licensed premises that is intended to induce the sale of a cannabis product produced or sold on the premises;~~

~~\_\_\_\_\_ (b) a label affixed to a cannabis product or the covering, wrapper or container of a cannabis product; or~~

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

~~\_\_\_\_\_ B.] A. "cannabis":~~

~~(1) means all parts of the plant genus *Cannabis* containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the~~

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resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include:

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

(b) the weight of any other ingredient combined with cannabis [~~products~~] to prepare topical or oral administrations, food, drink or [~~another~~] other product;

[~~E.~~] B. "cannabis consumption area" means an area of a licensed premises where cannabis products may be served and consumed;

[~~D.~~] C. "cannabis courier" means a person that transports commercial or medical cannabis products to [~~qualified patients, primary caregivers or reciprocal participants or directly to~~] consumers;

[~~E.~~] D. "cannabis establishment" means a:

(1) [~~a~~] cannabis testing laboratory;

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- (2) [~~a~~] cannabis manufacturer;
- (3) [~~a~~] cannabis producer;
- (4) [~~a~~] cannabis retailer;
- (5) [~~a~~] cannabis research laboratory;
- (6) [~~a~~] vertically integrated cannabis establishment;
- (7) [~~a~~] cannabis producer microbusiness; [~~or~~]
- (8) [~~an~~] integrated cannabis microbusiness; or
- (9) cannabis consumption area;

[~~F.~~] E. "cannabis extract":

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

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

[~~G.~~] F. "cannabis flowers" means only the flowers of a cannabis plant;

[~~H.~~] G. "cannabis manufacturer" means a person that:

- (1) manufactures cannabis products;
- (2) packages cannabis products for resale; or



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~~[(3) has cannabis products tested by a cannabis testing laboratory; or~~

~~(4)] (3) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments;~~

~~[F.] H.~~ H. "cannabis producer" means a person that:

(1) cultivates cannabis plants;

~~[(2) has unprocessed cannabis products tested by a cannabis testing laboratory;~~

~~(3)] (2) transports unprocessed cannabis [products] only to other cannabis establishments; or~~

~~[(4)] (3) sells cannabis [products] wholesale;~~

~~[G.] I.~~ I. "cannabis producer microbusiness" means a cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time;

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

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

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cannabis cultivation, characteristics or uses;

~~[M.]~~ L. "cannabis retailer" means a person that sells cannabis products to ~~[qualified patients, primary caregivers or reciprocal participants or directly to]~~ consumers;

~~[N.]~~ ~~"cannabis server permit" means an authorization that allows a person to directly offer, sell or serve cannabis or cannabis products as part of commercial cannabis activity in a cannabis consumption area;~~

~~O.~~ ~~"cannabis server permit education provider" means a person that provides cannabis server education courses and examinations;~~

~~P.]~~ M. "cannabis testing laboratory" means a ~~[person]~~ facility that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing;

~~[Q.]~~ ~~"cannabis training and education program" means a practical or academic curriculum offered by a New Mexico public post-secondary educational institution designed to prepare students for participation in the cannabis industry;~~

~~R.]~~ N. "commercial cannabis activity":

(1) means the cultivation, production,

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possession, manufacture, storage, testing, researching, packaging and labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and

(2) does not include activities related only to the medical cannabis program [~~to cannabis training and education programs~~] or to the personal cultivation or use of cannabis products;

[~~S.~~] O. "consumer" means a person twenty-one years of age or older who legally purchases, acquires, owns, possesses or uses a commercial cannabis product [~~for a purpose other than~~] not for resale or a person who holds a medical cannabis program registry identification card issued by the department of health as a qualified patient, a primary caregiver or a reciprocal participant;

[~~T.~~] P. "contaminant" means pesticides and other foreign material, such as hair, insects or other similar adulterants, in harvested cannabis;

[~~U.~~] Q. "controlling person":

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

(2) does not include a bank or licensed

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lending institution;

[V.] R. "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis;

[W.] S. "department" means the regulation and licensing department;

[X.] T. "director" means the director of the division;

[Y.] U. "division" means the cannabis control division of the department;

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

[AA.] W. "facility" means a building, space or grounds licensed for the production, [~~possession~~] storage, testing, manufacturing [~~or~~], distribution or consumption of

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~~[cannabis, cannabis extracts or]~~ cannabis products;

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

~~[CC-]~~ Y. "homegrown" or "homemade" means grown or made for purposes that are not ~~[dependent or conditioned upon the provision or receipt of financial consideration]~~ for resale;

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

Z. "illegal cannabis product" means a cannabis product that is:

(1) produced or manufactured outside New Mexico;

(2) produced, manufactured, distributed or sold in New Mexico by a person not licensed to produce, manufacture, distribute or sell the cannabis product;

(3) produced, manufactured, distributed or sold by a person acting outside the allowable activities of the person's license; or

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(4) distributed or sold by a person who is not licensed to distribute or sell cannabis, except as otherwise provided in the Cannabis Regulation Act;  
provided that "illegal cannabis product" does not include a homegrown or homemade cannabis product that complies with the provisions of the Cannabis Regulation Act; [PROOFING: STET TO L MARGIN]

[~~EE-~~] AA. "immature cannabis plant" means a cannabis plant that has no observable flowers or buds;

[~~FF-~~] BB. "industry standards" means the prevailing customary standards of business practice in the cannabis industry in jurisdictions within the United States;

[~~GG-~~] CC. "integrated cannabis microbusiness" means a person that is [~~authorized~~] licensed to conduct one or more of the following:

(1) production of cannabis at a single licensed premises; provided that the person shall not possess more than two hundred total mature cannabis plants at any one time;

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

(3) sales and transportation of [~~only~~]

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cannabis products produced or manufactured by that person or another cannabis producer microbusiness or integrated cannabis microbusiness;

(4) operation of only one retail establishment; and

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

[~~HH.~~] DD. "licensed premises" means a location that includes:

(1) all enclosed public and private areas at the location that are used in the business and includes cannabis consumption areas, offices, kitchens, restrooms and storerooms;

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

(3) all areas of a stand-alone cannabis consumption area, including retail and other areas, whether enclosed or outside spaces, and including private or members-only clubs where cannabis products are available for sale or

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consumption; and

~~[(3)]~~ (4) with respect to a location that is specifically licensed for the production of cannabis outside of a building, the ~~[entire unit]~~ amount of land that ~~[is created by subsection or partition of land that]~~ the licensee owns, leases or has a right to occupy that is identified in the application for licensure for cultivation of cannabis; provided that the licensed premises may be decreased, but shall not be increased without permission of the division;

~~[HH.]~~ EE. "local jurisdiction" means a municipality, including a home rule municipality or county;

~~[JJ.]~~ FF. "manufacture" means to compound, blend, extract, infuse, package and label or otherwise prepare a cannabis product;

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

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

~~[MM.]~~ II. "medical cannabis registry" means the system by which the department of health approves or denies



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applications and issues and renews registry identification cards for qualified patients, primary caregivers and reciprocal participants;

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

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

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

[~~QQ.~~] MM. "reciprocal participant" means a person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of

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the United States, the District of Columbia or a territory or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program;

NN. "residence" means a housing unit and includes any place in or around the housing unit that is not a public space and at which an occupant of the housing unit produces, manufactures, keeps or stores homegrown or homemade cannabis products;

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

~~[SS-]~~ PP. "superintendent" means the superintendent of regulation and licensing;

~~[TT-]~~ QQ. "unprocessed" means unaltered from an original, raw or natural state; and

~~[UU-]~~ RR. "vertically integrated cannabis establishment" means a person that is authorized to act as ~~[any]~~ one or more of the following:

- (1) a cannabis courier;

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- (2) a cannabis manufacturer;
- (3) a cannabis producer; and
- (4) a cannabis retailer."

**SECTION 5.** Section 26-2C-6 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 6, as amended) is amended to read:

"26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--  
MEDICAL CANNABIS LEGACY LICENSING--~~[CANNABIS SHORTAGE FOR  
MEDICAL PROGRAM--]~~CONVERSION OF NONPROFIT MEDICAL CANNABIS  
CORPORATIONS.--

A. The division shall regulate ~~[and administer and  
may collect fees in connection with the administration of]~~ the  
following in accordance with the Uniform Licensing Act, unless  
otherwise provided in the Cannabis Regulation Act:

- (1) commercial cannabis activity ~~[and  
licensing related to commercial cannabis activity];~~
- (2) the medical cannabis program, except for  
the medical cannabis registry; and
- (3) all aspects of cannabis relating to  
cannabis training and education programs.

B. The division ~~[shall follow the provisions of the  
Uniform Licensing Act when licensing or permitting the~~

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following] may issue, renew, deny, suspend or revoke licenses or permits, as applicable, for the following:

- (1) cannabis consumption areas;
- (2) cannabis couriers;
- (3) cannabis manufacturers;
- (4) cannabis producer microbusinesses;
- (5) cannabis producers;
- (6) cannabis research laboratories;
- (7) cannabis retailers;
- (8) cannabis servers;
- (9) cannabis testing laboratories;
- (10) cannabis training and education programs;
- (11) integrated cannabis microbusinesses; and
- (12) vertically integrated cannabis

establishments.

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

D. The division shall issue a license to a cannabis retailer applicant at a discount if the applicant provides

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documentation of an agreement to accept cannabis products on consignment from a cannabis producer microbusiness or an integrated cannabis microbusiness [~~licensed pursuant to the Cannabis Regulation Act~~].

E. A license is valid for twelve months from the date the license is issued and may be renewed annually [~~except that a license issued for a cannabis training and education program is valid until terminated by the licensee or suspended or revoked by the division~~]. A licensee shall notify the division when the licensee begins or ends operations pursuant to the license.

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

(1) the licensee is not a delinquent taxpayer pursuant to Section 7-1-16 NMSA 1978 only with respect to the cannabis excise tax or the gross receipts tax; and

(2) there are no unfiled tax returns due with respect to the cannabis excise tax or the gross receipts tax.

G. [~~No~~] A license shall not be transferable or

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assignable from a licensee to another person. The division shall not allow a person that is licensed as any type of cannabis establishment other than a cannabis research laboratory to hold, directly or indirectly, a cannabis testing laboratory license.

H. A license shall not be subject to execution, attachment, a security transaction, lien or receivership.

~~[H.]~~ I. Except for verification of age, the division shall not require licensees to request information from consumers or impose any residency requirement upon consumers for the purchase of commercial cannabis products ~~[pursuant to the commercial cannabis activity authorized by the Cannabis Regulation Act]~~. The division may require licensees to request information from consumers for the purchase of medical cannabis products ~~[pursuant to the medical cannabis program]~~, which may include the presentation of legal identification issued by an authorized governmental entity or other documents as required by the medical cannabis program.

~~[I.]~~ J. Except as otherwise provided in the Cannabis Regulation Act, the division shall not limit the number of licensed premises a licensee may occupy or operate under a license. Multiple licensees may occupy a single

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licensed premises, and the division shall not place any restriction or prohibition on the number of licensees occupying a single licensed premises or on the number of licensed premises of a cannabis establishment except as otherwise specifically provided for by ~~[the Cannabis Regulation]~~ that act. A licensee may conduct any lawful activity or any combination of lawful activities at a licensed premises ~~[provided that the licensee is not a licensee pursuant to the Liquor Control Act]~~ except that a cannabis licensee shall not occupy any premises that also houses a business holding a license under the Liquor Control Act that allows the sale or giving away of alcoholic beverages by the glass or package, including growlers, to the public or to members of a private club or otherwise allows consumption of alcohol on the premises.

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

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[J.] L. Licensees are specifically allowed to conduct other licensed activities, including activities pursuant to the Hemp Manufacturing Act [~~except for sales of alcoholic beverages~~] and the Liquor Control Act except for co-loction.

[K.] M. A person properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act on the effective date of the Cannabis Regulation Act may continue to operate [~~under~~] pursuant to that license for medical cannabis until comparable licenses for commercial cannabis activity are available. The division shall determine when retail sales of commercial cannabis products begin, but no later than April 1, 2022. A facility of such a licensee, upon issuance of the applicable cannabis establishment license, shall constitute licensed premises of the licensee and the licensee shall be entitled to continued and uninterrupted operations of the licensed premises. As to activity under the medical cannabis program, the licensee shall continue to operate under rules promulgated for the medical cannabis program until the division promulgates rules for medical cannabis activity [~~except that~~] and a qualified patient, [~~a~~] primary caregiver [~~and a~~] or reciprocal participant shall not



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be prohibited from purchasing and obtaining cannabis products  
[pursuant to] through the medical cannabis program.

~~[L. To address a shortage of cannabis supply in the  
medical cannabis program, the division may:~~

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

~~(2) initially take reasonable measures to  
expeditiously incentivize increased production of cannabis  
plants to remedy a shortage of cannabis supply in the medical  
cannabis program;~~

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

~~(4) require licensees who are licensed to~~

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~~produce cannabis to produce a specified quota of mature cannabis plants to be designated for use in the medical cannabis program; provided that:~~

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

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

~~M. As used in this section, "shortage of cannabis supply in the medical cannabis program" means that the average number of cannabis plants in production in the medical cannabis program per qualified patient after the effective date of the Cannabis Regulation Act is substantially less than the average number of cannabis plants in production in the medical cannabis program per qualified patient as of the effective date of the Cannabis Regulation act, where:~~

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

~~(2) the average number of cannabis plants in production as of the effective date of the Cannabis Regulation~~

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~~act is measured over a period of three consecutive months immediately preceding the effective date of the Cannabis Regulation act.]~~

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

O. A medical cannabis legacy nonprofit corporation that was required by rule of the department of health to organize under the provisions of the Nonprofit Corporation Act in order to qualify for a medical cannabis license may be converted into a corporation under the Business Corporation Act, a limited liability company under the Limited Liability Company Act, a limited partnership under the Uniform Revised Limited Partnership Act or a partnership under the Uniform Partnership Act upon the nonprofit corporation's filing with the secretary of state of restated articles of incorporation, articles of organization, certificate of limited partnership or statement under Section 54-1A-105 NMSA 1978. The conversion shall be approved pursuant to an agreement of conversion in the manner provided for the conversion of a limited liability

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company in Section 53-19-60.1 NMSA 1978. To be valid, the agreement of conversion shall be approved by a majority of the mebers of the board of directors of the nonprofit corporation. Upon conversion, all property owned by the converting entity remains in the newly converted entity. Any action or proceeding pending against the converting entity may be continued as if the conversion had not occurred."

SECTION 6. A new section of the Cannabis Regulation Act, Section 26-2C-6.1 NMSA 1978, is enacted to read:

"26-2C-6.1. [NEW MATERIAL] MORATORIA OR INCREASE IN RESPONSE TO MARKET CONDITIONS--SHORTAGES IN MEDICAL CANNABIS PROGRAM.--

A. Upon a finding and the recommendation of the cannabis regulatory advisory committee that market equilibrium is deficient and threatens the economic viability of the cannabis industry or adequate supply of cannabis, the superintendent may impose temporary moratoria on new licensure, issue new licenses or allow greater production by current licensees. The superintendent shall make the decision with input from the university of New Mexico bureau of business and economic research.

B. To address a shortage of cannabis supply in the

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medical cannabis program, the division may:

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

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

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

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

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(a) the division shall not require a licensee to devote more than twenty-five percent of the licensee's cultivated cannabis plants on a monthly basis for use in the medical cannabis program; and

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

C. As used in this section, "shortage of cannabis supply in the medical cannabis program" means that the average number of cannabis plants in production in the medical cannabis program per qualified patient after the effective date of the Cannabis Regulation Act is substantially less than the average number of cannabis plants in production in the medical cannabis program per qualified patient as of the effective date of that act, where:

(1) the average number of cannabis plants in production after the effective date of that act is measured over a period of three consecutive months; and

(2) the average number of cannabis plants in production as of the effective date of that act is measured over a period of three consecutive months immediately preceding the effective date of that act."

**SECTION 7.** Section 26-2C-7 NMSA 1978 (being Laws 2021

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(1st S.S.), Chapter 4, Section 7) is amended to read:

"26-2C-7. [~~COMMERCIAL~~] CANNABIS ACTIVITY LICENSING--  
APPLICATION--ISSUANCE AND DENIAL OF A LICENSE.--

~~[A. A license issued pursuant to the Cannabis  
Regulation Act shall not be subject to execution, attachment, a  
security transaction, liens or receivership.]~~

~~[B.]~~ A. In carrying out its commercial cannabis  
activity licensing duties, the division shall:

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

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

(3) if a cannabis producer or cannabis  
producer microbusiness, require as a condition of licensing  
pursuant to the Cannabis Regulation Act that the applicant  
demonstrate that the applicant has a legal right to a  
commercial water supply, water rights or [~~another~~] other source  
of water sufficient to meet the water needs as determined by  
the division related to the license as evidenced by

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documentation from the office of the state engineer of a valid water right or from a water provider that the use of water for cannabis production is compliant with that water provider's rules;

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

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

(b) natural lighting and energy efficiency measures; and

(c) renewable energy generation; and

(5) allow commercial cannabis activity retail sales no later than April 1, 2022 and otherwise allow activities authorized by the Cannabis Regulation Act or the medical cannabis program as of the time of licensure of a licensee, so long as a minimum of twenty-five percent of monthly cannabis sales are to qualified patients, primary caregivers and reciprocal participants or sold wholesale to other licensees that meet or exceed the twenty-five percent

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sales to qualified patients, primary caregivers and reciprocal participants until December 31, 2022.

~~[G.]~~ B. Once the division deems an application complete, the division has ninety days to issue or deny a license application.

~~[D.]~~ C. The division shall deny an application for an initial license or renewal or may suspend or revoke a license if ~~[(1)]~~ the application does not include information required by the division or ~~[(2)–the]~~ the applicant does not meet the requirements of the Cannabis Regulation Act or rules promulgated in accordance with that act.

D. In addition to the general requirements of Subsection C of this section, the division may refuse to issue, suspend or revoke a license based on one or more of the following that are substantially related to the qualifications, functions or duties of the applicant's business in New Mexico:

(1) denial or revocation of licensure in another state;

(2) a tax lien in this or another state or an agency of the federal government; or

(3) a pending investigation, indictment or conviction of the applicant, licensee or [a] controlling person

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of the applicant [~~has been convicted of an offense that is substantially related to the qualifications, functions or duties of the applicant's business provided that~~] in this state or another state or by the federal government.

E. If the division determines after a review of pertinent circumstances provided in Subsections C or D of this section that the applicant, licensee or controlling person [~~is~~] otherwise [~~qualified~~] meets the qualifications for [a license] licensure and that issuing a license [~~to the applicant would~~] does not compromise the state's cannabis program or the public health or safety, [the division shall conduct a thorough review of the conviction, including the nature of the offense, surrounding circumstances and, any evidence of the applicant's or controlling person's rehabilitation following the conviction, and based on that review determine whether the applicant should be issued a license] the division shall issue the license or close the suspension or revocation case.

~~[E.]~~ F. For purposes of Subsection D of this section, the following are considered substantially related to the qualifications, functions or duties of [~~a person seeking a license~~] licensure in New Mexico:

(1) a pending investigation or a felony indictment or conviction involving fraud, deceit or  
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embezzlement;

(2) a pending investigation or a felony indictment or conviction involving producing, manufacturing, distributing, selling or giving away illegal cannabis or cannabis products;

(3) the refusal to issue or revocation of a cannabis license in another state that would have the same result if occurring in New Mexico;

~~[(2)]~~ (4) a pending investigation or a felony indictment or conviction for hiring, employing or otherwise using a person younger than eighteen years of age or a person of any age who is a victim of trafficking, forced labor or other exploitation to:

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

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

(5) a licensee or controlling person that after a notice of noncompliance issued by the division or a local government, refuses to follow division licensing requirements, including misappropriation of water; state or local operational rules; public health and safety laws or

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rules; or other provisions of state law pertaining to cannabis products;

(6) a business-related tax lien; and

~~[(3)]~~ (7) any other [offense as determined by the division] governmental action pending or taken against an applicant, licensee or controlling person that in the division's determination makes the person unqualified to be licensed or involved in a cannabis business in New Mexico.

~~[F.]~~ G. A conviction for which the related sentence, including any term of probation or parole, is completed for the possession, use, manufacture, distribution or dispensing or the possession with the intent to manufacture, distribute or dispense cannabis is not considered substantially related to the qualifications, functions or duties of a person seeking a license and shall not be the sole ground on which an application is denied. ~~[The division shall comply with]~~ The provisions of the Uniform Licensing Act and the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Cannabis Regulation Act.

~~[G.]~~ H. The division shall deny an application if an applicant, a controlling person or the premises for which a license is sought does not qualify for licensure pursuant to .226670.1

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the Cannabis Regulation Act.

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

~~[I.]~~ J. Unless otherwise provided in the Cannabis Regulation Act, a person whose license has been revoked may reapply for a license after a period of three years. The division may consider all of the circumstances resulting in the revocation in determining whether to issue a new license.

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

- ~~[(1) cannabis manufacturer;~~
- ~~(2) cannabis producer;~~
- ~~(3) cannabis producer microbusiness;~~
- ~~(4) cannabis research laboratory;~~

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- ~~(5) cannabis retailer;~~
- ~~(6) cannabis testing laboratory;~~
- ~~(7) integrated cannabis microbusiness; and~~
- ~~(8) vertically integrated cannabis~~

~~establishment.~~

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

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

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

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

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

~~L. Arrest record information received from the federal bureau of investigation and the department of public safety shall be confidential, shall not be considered a public record pursuant to the Public Records Act and shall not be disclosed to persons not directly involved in the decision affecting the applicant.~~

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

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**SECTION 8.** A new section of the Cannabis Regulation Act is enacted to read:

"[NEW MATERIAL] CRIMINAL HISTORY BACKGROUND CHECKS--  
PROCESSES AND PROCEDURES.--

A. As used in this section:

(1) "director" means a person who serves on the corporate board of directors of a corporation licensed by the division as a cannabis establishment;

(2) "member and manager" includes those persons who are members in or managers of a limited liability company licensed by the division as a cannabis establishment and who are responsible for the operations of the limited liability company;

(3) "officer" means a president, one or more vice presidents, a secretary, treasurer or secretary-treasurer or a member of the executive committee, if different from these named officers, of a corporation licensed by the division as a cannabis establishment; and

(4) "partner" means a person who is a co-owner of a business licensed by the division as a cannabis establishment.

B. The division shall adopt rules providing the

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procedures to be followed for submission of an applicant's biometric scan to the department of public safety to conduct a state criminal history check and for its submission of the biometric scan to the federal bureau of investigation to conduct a national criminal history background check for the following cannabis establishments:

- (1) cannabis courier;
- (2) cannabis manufacturer;
- (3) cannabis producer;
- (4) cannabis producer microbusiness;
- (5) cannabis research laboratory;
- (6) cannabis retailer;
- (7) cannabis testing laboratory;
- (8) integrated cannabis microbusiness; and
- (9) vertically integrated cannabis

establishment.

C. The division shall require state and national criminal history background checks for the following persons:

- (1) if an applicant for licensure is a sole proprietor business, the sole proprietor;
- (2) if an applicant for licensure is a limited partnership, each partner of the limited partnership;
- (3) if the applicant for licensure is a

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limited liability company, each member and manager of the limited liability company;

(4) if the applicant for licensure is a corporation, each director and officer of the corporation; and

(5) any controlling person of the applicant for licensure, as defined in Section 26-2C-2 NMSA 1978.

D. The division shall use the information from the criminal history background check to evaluate the applicant's qualifications for licensure.

E. Arrest record information received from the federal bureau of investigation and the department of public safety shall be confidential, shall not be considered a public record pursuant to the Public Records Act and shall not be disclosed to persons not directly involved in the decision affecting the applicant."

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

"26-2C-9. APPLICATION AND LICENSING FEES.--

A. Every application for the issuance or renewal of the following licenses shall be accompanied by a license fee [~~in the following specified amounts~~] as follows:

(1) a cannabis courier license, up to one .226670.1

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thousand five hundred dollars (\$1,500) per year and an additional fee of up to one thousand dollars (\$1,000) per year for each additional licensed premises of the licensee;

(2) a cannabis testing laboratory license, up to two thousand five hundred dollars (\$2,500) per year and an additional fee of up to one thousand dollars (\$1,000) per year for each additional licensed premises of the licensee;

(3) a cannabis manufacturer license, two thousand five hundred dollars (\$2,500) per year and an additional fee of one thousand dollars (\$1,000) per year for each additional licensed premises of the licensee;

(4) a cannabis producer license, two thousand five hundred dollars (\$2,500) per year and an additional fee of one thousand dollars (\$1,000) per year for each additional licensed premises of the licensee;

(5) a cannabis retailer license, two thousand five hundred dollars (\$2,500) per year and an additional fee of one thousand dollars (\$1,000) per year for each additional licensed premises of the licensee;

(6) a cannabis research laboratory license, two thousand five hundred dollars (\$2,500) per year and an additional fee of one thousand dollars (\$1,000) per year for each additional licensed premises of the licensee;

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(7) a vertically integrated cannabis establishment license, seven thousand five hundred dollars (\$7,500) per year and an additional fee of one thousand dollars (\$1,000) per year for each licensed premises of the licensee;

(8) a cannabis producer microbusiness license, up to one thousand dollars (\$1,000) per year;

(9) an integrated cannabis microbusiness license, up to two thousand five hundred dollars (\$2,500) per year and an additional fee of five hundred dollars (\$500) per year for each licensed premises of the licensee; and

(10) a cannabis consumption area license, up to two thousand five hundred dollars (\$2,500) per year.

B. Except for cannabis producer microbusinesses and integrated cannabis microbusinesses, a licensee cultivating cannabis plants shall be assessed an additional annual fee no greater than fifty dollars (\$50.00) per mature cannabis plant at the time of licensing or renewal.

C. A licensee may increase the number of mature plants licensed at the time of renewal and one other time per year in increments of five hundred mature plants. Fees may be prorated for the remainder of the licensing year.

D. ~~[The initial application fee and the annual~~

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~~renewal fee for a vertically integrated cannabis establishment license shall not exceed one hundred twenty-five thousand dollars (\$125,000) for a license for both medical cannabis activity and commercial cannabis activity.]~~ The initial application fee and the annual renewal fee for a license or renewal of a license that authorizes only medical cannabis activity shall be one-half the fee applicable to a license authorizing both medical cannabis activity and commercial cannabis activity.

E. If a cannabis producer microbusiness or an integrated cannabis microbusiness enters into a business arrangement with another licensee with the purpose of or having the effect of evading the limitations of the licensee's license, such licensee shall not be eligible for the lower fee prescribed in Subsection A of this section and shall pay the per-plant fee prescribed in Subsection B of this section.

F. The division shall collect all renewal fees, including the renewal fees for all licensed premises, at the time of renewal of a license.

G. The fee for the issuance of a cannabis server permit shall not exceed thirty-five dollars (\$35.00).

H. The division shall deposit all fees collected pursuant to the Cannabis Regulation Act in the cannabis

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regulation fund."

**SECTION 10.** Section 26-2C-10 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 10) is repealed and a new Section 26-2C-10 NMSA 1978 is enacted to read:

"26-2C-10. [NEW MATERIAL] CANNABIS TRAINING AND EDUCATION PROGRAMS--REGISTRATION WITH DIVISION.--A New Mexico public post-secondary educational institution may offer a practical or academic curriculum designed to prepare students for participation in the cannabis industry. The institution shall register its cannabis training and education program with the division, which shall include the information about the program on its website."

**SECTION 11.** Section 26-2C-18 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 18) is amended to read:

"26-2C-18. TESTING CANNABIS PRODUCTS--HEALTH AND SAFETY OF EMPLOYEES.--

A. A cannabis testing laboratory's testing of cannabis products shall comply with the requirements set forth in applicable law and rules.

B. In consultation with the department of environment and consistent with industry standards, the division shall promulgate rules to:

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(1) ~~[ensure that testing of cannabis products occurs]~~ require all cannabis producers and cannabis manufacturers to have their cannabis products tested prior to distribution to cannabis retailers or for sales by integrated cannabis microbusinesses;

(2) specify how often licensees shall test cannabis products;

(3) specify which persons bear the cost of testing commercial or medical cannabis products ~~[and medical cannabis]~~;

(4) provide for recordkeeping;

(5) establish chain of custody protocols for the transportation of testing ~~[sample transportation]~~ samples;

(6) ensure that testing samples are transported and stored in a manner that prevents degradation, contamination, tampering or diversion;

(7) specify protocols for testing sample collection that ensure accurate test results, including requiring that testing samples be collected by laboratory staff trained in the collection of testing ~~[sample collection]~~ samples; and

(8) require destruction of a tested batch of cannabis products if the testing samples from the tested batch

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indicate noncompliance with applicable health and safety standards promulgated by the division, unless remedial measures can bring the cannabis products into compliance with the standards or the cannabis products can be used for research purposes.

C. Beginning no later than April 1, 2022, the division shall identify, in consultation with the department of environment, a set of updated certified reference materials for which laboratory testing [~~to~~] shall be measured against.

D. The division shall work cooperatively with the department of environment to implement inspection of cannabis establishments to ensure the health and safety of employees in accordance with the Occupational Health and Safety Act, [~~and~~] to determine compliance with rules promulgated by the environmental improvement board and to protect the health and safety of consumers."

**SECTION 12.** Section 26-2C-20 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 20) is amended to read:

"26-2C-20. ADVERTISING AND MARKETING RESTRICTIONS.--

A. As used in this section, "advertising" does not mean:

(1) a sign or outdoor display or other

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statement permanently affixed to a licensed premises that is intended to induce the sale of a cannabis product produced, manufactured or sold on the premises;

(2) a label affixed to a cannabis product or the covering, wrapper or container of a cannabis product; or

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

B. The division shall promulgate rules consistent with industry standards that:

~~[A.]~~ (1) prohibit the advertisement and marketing of cannabis products:

~~[(1)]~~ (a) on radio, television or other broadcast media, internet pop-ups and mass transit vehicles; provided that the division shall not prohibit advertising and marketing to ~~[(a)]~~: 1) subscribers of subscription-based radio, television or other broadcast media who are twenty-one years of age or older; or ~~[(b)]~~ 2) persons twenty-one years of age or older who have solicited the advertising or marketing;

~~[(2)]~~ (b) that are false, deceptive or misleading, including making unproven health benefit claims;

~~[(3)]~~ (c) that are on billboards,



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posters, handbills or other visual media that are located or can be viewed within three hundred feet of a school, daycare center or church;

[~~(4)~~] (d) that depict consumption by children or other persons who appear to be younger than twenty-one years of age;

[~~(5)~~] (c) that use predatory marketing and advertising practices targeting minors; or

[~~(6)~~] (d) that are designed using cartoon characters or to mimic any other product brand; and

[~~B-~~] (2) require:

[~~(1)~~] (a) all advertisements and marketing to accurately and legibly identify all persons responsible for its content; and

[~~(2)~~] (b) advertisements in print and digital communications to be placed only where the audience is reasonably expected to be twenty-one years of age or older as determined by reliable, current audience composition data."

SECTION 13. Section 26-2C-28 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 28) is amended to read:

"26-2C-28. [~~UNLICENSED SALES OF~~] TRAFFICKING CANNABIS PRODUCTS--PENALTIES.--

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A. As used in this section [~~traffic means the (1) distribution, sale, barter or giving away of~~] "traffick cannabis products" means to:

(1) distribute or sell illegal cannabis products; or

(2) [~~possession~~] possess with intent to distribute or sell [~~barter or give away~~] illegal cannabis products.

B. Unless otherwise provided in the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, it is unlawful for a person [~~without a license~~] to intentionally [~~traffic~~] traffick cannabis products.

C. A person [~~under~~] less than eighteen years of age who violates Subsection B of this section shall be subject to:

(1) attendance at a four-hour evidence-based drug education and legal rights program at no cost to the person; or

(2) four hours of community service.

D. Except as otherwise provided in Section [~~14 of the Cannabis Regulation Act~~] 26-2C-14 NMSA 1978, a person eighteen years of age or older who violates Subsection B of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

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E. A person eighteen years of age or older who violates Subsection B of this section and who [~~conducts~~ ~~unlicensed~~] trafficks cannabis [~~product sales~~] products from a building, room or other area open to the public in a manner that would lead a reasonable person to believe that the area is a licensed cannabis establishment [~~licensed pursuant to the Cannabis Regulation Act~~] is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

F. Illegal cannabis products seized by a law enforcement agency shall be retained as evidence to the extent necessary. Illegal cannabis products no longer needed as evidence shall be destroyed by the seizing agency.

G. The provisions of this section do not apply to homegrown or homemade cannabis products unless a person tries to sell the homegrown or homemade cannabis products."

**SECTION 14.** A new section of the Cannabis Regulation Act is enacted to read:

"[NEW MATERIAL] WHEN CANNABIS PRODUCT DEEMED ADULTERATED.--A cannabis product is deemed to be adulterated if:

A. it bears or contains mold, mildew or other

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deleterious or poisonous substance that may render it injurious to health;

B. it consists in whole or in part of a diseased, contaminated, filthy, impure or infested ingredient, putrid or decomposed substance or if it is otherwise unfit for consumption;

C. it has been produced, prepared, packed or held under insanitary conditions so that it may have been contaminated with filth or rendered diseased, unwholesome or injurious to health;

D. its container is composed in whole or in part of a poisonous or deleterious substance that may render the contents injurious to health;

E. a valuable constituent has been, in whole or in part, omitted or abstracted from the cannabis product;

F. a substance has been substituted in whole or in part that is contrary to the ingredient list on the package unless a notification of substitution is adhered to the packaging;

G. damage or inferiority has been concealed in any manner;

H. a substance has been added so as to increase the cannabis product's bulk or weight or reduce its quality or

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strength or make it appear better or of greater value than it is; or

I. the cannabis product is a confectionery, it contains alcohol or other non-nutritive article or substance except harmless coloring, flavoring, natural gum, pectin or resinous glaze not in excess of four-tenths of one percent; provided that a confectionary may include less than two and one quarter percent by weight of alcohol derived solely from the use of flavoring extracts or to any chewing gum by reason of its containing harmless non-nutritive masticatory substances."

**SECTION 15.** A new section of the Cannabis Regulation Act is enacted to read:

"[NEW MATERIAL] WHEN CANNABIS DEEMED MISBRANDED.--

Cannabis is deemed to be misbranded if:

A. its labeling is false or misleading in any particular;

B. it is offered for sale under the name of another cannabis product;

C. it is an imitation of another cannabis product, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately following, the name of the cannabis product imitated;

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D. its container is so made, formed or filled as to be misleading; or

E. the label otherwise does not conform to the requirements of Section 26-2C-17 NMSA 1978 and labeling rules promulgated by the division."

**SECTION 16.** A new section of the Cannabis Regulation Act is enacted to read:

"[NEW MATERIAL] DETENTION OF CANNABIS BELIEVED ADULTERATED OR MISBRANDED--DESTRUCTION OR CORRECTION OF DEFECT.--

A. As used in this section, "director" includes an employee of the division or other person designated by the director as the director's authorized representative.

B. Whenever the director finds or has probable cause to believe that a cannabis product is adulterated or so misbranded as to be dangerous or fraudulent within the meaning of the Cannabis Regulation Act, the director shall affix to the cannabis product a tag or other appropriate marking giving notice that the cannabis product is or is suspected of being adulterated or misbranded and has been detained or embargoed and warning all persons not to remove or dispose of the cannabis product by sale or otherwise until permission for removal or disposal is given by the director or a court of .226670.1

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competent jurisdiction. It is unlawful for any person to remove or dispose of the detained or embargoed cannabis product by sale or otherwise without such permission.

C. When a cannabis product detained or embargoed pursuant to Subsection A of this section has been found by the director to be adulterated or misbranded, the director shall petition the judge of the district court in whose jurisdiction the cannabis product is detained or embargoed for a libel for condemnation of cannabis product. When the director has found that a cannabis product so detained or embargoed is not adulterated or misbranded, the director shall remove the tag or other marking.

D. If the court finds that a detained or embargoed cannabis product is adulterated or misbranded, after entry of the decree the cannabis product shall be destroyed under the supervision of the director at the expense of the claimant of the cannabis product, and all court costs and fees and storage and other proper expenses shall be taxed against the claimant of the cannabis product or the claimant's agent. If the court finds that the adulteration or misbranding can be corrected by proper processing or labeling, the court may by order direct that the cannabis product be delivered to the claimant for such

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processing or labeling under the supervision of the director. The expense of such supervision shall be paid by the claimant. The bond shall be returned to the claimant on representation to the court by the director that the cannabis product is no longer in violation of the Cannabis Regulation Act and that the expenses of supervision have been paid."

**SECTION 17.** A new section of the Cannabis Regulation Act is enacted to read:

"[NEW MATERIAL] POWER TO ENJOIN VIOLATIONS.--In addition to the other remedies provided in the Cannabis Regulation Act, the division may apply to the district court for a temporary or permanent injunction restraining a person from violating a provision of that act, irrespective of whether or not there exists an adequate remedy at law, and the court shall have jurisdiction upon hearing and for such cause shown."

**SECTION 18.** A new section of the Cannabis Regulation Act is enacted to read:

"[NEW MATERIAL] MINOR VIOLATIONS OF ACT--WARNING AUTHORIZED.--Nothing in the Cannabis Regulation Act shall be construed as requiring the director to report for the purpose of the institution of proceedings under that act, minor violations of that act whenever the director believes that the public interest will be adequately served in the circumstances .226670.1



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by a suitable written notice or warning."

**SECTION 19.** Section 26-2C-39 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 39) is amended to read:

"26-2C-39. CANNABIS REGULATION FUND.--

A. The "cannabis regulation fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and fees collected by the division pursuant to the Cannabis Regulation Act and the medical cannabis program administered by the division. [~~Any unexpended or unencumbered balance remaining at the end of a fiscal year shall revert to the general fund.~~]

B. Money in the cannabis regulation fund is subject to appropriation by the legislature to fund the division, the department of health, the department of environment, the New Mexico department of agriculture, the taxation and revenue department and the department of public safety [~~for the purposes of~~] when the division or department is carrying out its duties pursuant to the provisions of the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act."

**SECTION 20.** Section 61-1-2 NMSA 1978 (being Laws 1957, Chapter 247, Section 2, as amended) is amended to read:

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"61-1-2. DEFINITIONS.--As used in the Uniform Licensing Act:

A. "board" means:

(1) the construction industries commission, the construction industries division and the electrical bureau, mechanical bureau and general construction bureau of the construction industries division of the regulation and licensing department;

(2) the manufactured housing committee and the manufactured housing division of the regulation and licensing department;

(3) the crane operators licensure examining council;

(4) a board, commission or agency that administers a profession or occupation licensed pursuant to Chapter 61 NMSA 1978;

(5) the cannabis control division of the regulation and licensing department; and

~~(5)~~ (6) any other state agency to which the Uniform Licensing Act is applied by law;

B. "applicant" means a person who has applied for a license;

C. "expedited license", whether by examination,  
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endorsement, credential or reciprocity, means a license issued to a person in this state based on licensure in another state or territory of the United States, the District of Columbia or a foreign country, as applicable;

D. "initial license" means the first regular license received from a board for a person who has not been previously licensed;

E. "license" means a certificate, permit or other authorization to engage in a profession or occupation regulated by a board;

F. "licensing jurisdiction" means another state or territory of the United States, the District of Columbia or a foreign country, as applicable;

G. "party" means a respondent licensee, applicant or unlicensed person who is the subject of a disciplinary proceeding or the civil administrative prosecutor representing the state and the board;

H. "probation" means to allow, for a stated period of time, the conduct authorized by a license, subject to conditions or other restrictions that are reasonably related to the grounds for probation;

I. "regular license" means a license that is not

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issued as a temporary or provisional license;

J. "revocation" means to prohibit the conduct authorized by the license for an indefinite period of time; and

K. "suspension" means to prohibit, for a stated period of time, the conduct authorized by the license."

**SECTION 21. REPEAL.**--Laws 2021 (1st S.S.), Chapter 4, Section 73 is repealed.

**SECTION 22. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2024.