

1 HOUSE BILL 292
2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY
4 Elizabeth "Liz" Thomson and Joanne J. Ferrary
5 and Christine Trujillo
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10 AN ACT
11 RELATING TO MEDICAL CANNABIS; AMENDING THE LYNN AND ERIN
12 COMPASSIONATE USE ACT TO UPDATE THE DEFINITION OF "SAFETY-
13 SENSITIVE POSITION".
14

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

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

18 "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin
19 Compassionate Use Act:

20 A. "adequate supply" means an amount of cannabis,
21 in any form approved by the department, possessed by a
22 qualified patient or collectively possessed by a qualified
23 patient and the qualified patient's primary caregiver that is
24 determined by rule of the department to be no more than
25 reasonably necessary to ensure the uninterrupted availability

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1 of cannabis for a period of three months and that is derived
2 solely from an intrastate source;

3 B. "cannabis":

4 (1) means all parts of the plant Cannabis
5 containing a delta-9-tetrahydrocannabinol concentration of more
6 than three-tenths percent on a dry weight basis, whether
7 growing or not; the seeds of the plant; the resin extracted
8 from any part of the plant; and every compound, manufacture,
9 salt, derivative, mixture or preparation of the plant, its
10 seeds or its resin; and

11 (2) does not include the mature stalks of the
12 plant; fiber produced from the stalks; oil or cake made from
13 the seeds of the plant; any other compound, manufacture, salt,
14 derivative, mixture or preparation of the mature stalks, fiber,
15 oil or cake; the sterilized seed of the plant that is incapable
16 of germination; the weight of any other ingredient combined
17 with cannabis to prepare topical or oral administrations, food,
18 drink or another product; or hemp;

19 C. "cannabis extract":

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

24 (2) does not include the weight of any other
25 ingredient combined with cannabis extract to prepare topical or

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1 oral administrations, food, drink or another product;

2 D. "cannabis flowers" means only the flowers of a
3 cannabis plant;

4 E. "cannabis product":

5 (1) means a product that contains cannabis,
6 including edible or topical products that may also contain
7 other ingredients; and

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

12 F. "debilitating medical condition" means:

13 (1) cancer;

14 (2) glaucoma;

15 (3) multiple sclerosis;

16 (4) damage to the nervous tissue of the spinal
17 cord, with objective neurological indication of intractable
18 spasticity;

19 (5) seizure disorder, including epilepsy;

20 (6) positive status for human immunodeficiency
21 virus or acquired immune deficiency syndrome;

22 (7) admitted into hospice care in accordance
23 with rules promulgated by the department;

24 (8) amyotrophic lateral sclerosis;

25 (9) Crohn's disease;

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- 1 (10) hepatitis C infection;
2 (11) Huntington's disease;
3 (12) inclusion body myositis;
4 (13) inflammatory autoimmune-mediated
5 arthritis;
6 (14) intractable nausea or vomiting;
7 (15) obstructive sleep apnea;
8 (16) painful peripheral neuropathy;
9 (17) Parkinson's disease;
10 (18) posttraumatic stress disorder;
11 (19) severe chronic pain;
12 (20) severe anorexia or cachexia;
13 (21) spasmodic torticollis;
14 (22) ulcerative colitis; or
15 (23) any other medical condition, medical
16 treatment or disease as approved by the department;

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

18 H. "division" means the cannabis control division
19 of the regulation and licensing department;

20 I. "dry weight basis" means a process by which
21 delta-9-tetrahydrocannabinol concentration is measured relative
22 to the aggregate weight of all parts of the plant genus
23 Cannabis, whether growing or not, including the leaves of the
24 plant, the flowers and buds of the plant, the seeds of the
25 plant, the resin of the plant and the stalks of the plant, at

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1 the point of harvest and with no moisture added to the
2 harvested plant;

3 J. "hemp" means the plant genus Cannabis and any
4 part of the plant, whether growing or not, containing a delta-
5 9-tetrahydrocannabinol concentration of no more than three-
6 tenths percent on a dry weight basis;

7 K. "medical cannabis program" means the program
8 established pursuant to the Lynn and Erin Compassionate Use Act
9 for authorization and regulation of the medical use of cannabis
10 in the state;

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

14 M. "primary caregiver" means a resident of New
15 Mexico who is at least eighteen years of age and who has been
16 designated by the patient's practitioner as being necessary to
17 take responsibility for managing the well-being of a qualified
18 patient with respect to the medical use of cannabis pursuant to
19 the provisions of the Lynn and Erin Compassionate Use Act;

20 N. "qualified patient" means a resident of New
21 Mexico who has been diagnosed by a practitioner as having a
22 debilitating medical condition and has received written
23 certification and a registry identification card pursuant to
24 the Lynn and Erin Compassionate Use Act on the basis of having
25 been diagnosed, in person or via telemedicine, by a

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1 practitioner as having a debilitating medical condition;

2 O. "reciprocal participant" means a person who is
3 not a resident of New Mexico and who holds proof of enrollment
4 by a governmental regulatory authority to participate in the
5 medical cannabis program of another state of the United States,
6 the District of Columbia or a territory or commonwealth of the
7 United States in which the person resides or a person who holds
8 proof of enrollment by a governmental regulatory authority of a
9 New Mexico Indian nation, tribe or pueblo to participate in its
10 medical cannabis program;

11 P. "registry identification card" means a document
12 that the department issues:

13 (1) to a qualified patient that identifies the
14 bearer as a qualified patient and authorizes the qualified
15 patient to use cannabis for a debilitating medical condition;
16 or

17 (2) to a primary caregiver that identifies the
18 bearer as a primary caregiver authorized to engage in the
19 intrastate possession and administration of cannabis for the
20 sole use of a qualified patient who is identified on the
21 document;

22 Q. "safety-sensitive position" means a position [~~in~~
23 ~~which performance~~] filled by a person who is required to carry
24 a firearm as part of the person's employment, or operate a
25 commercial vehicle requiring a commercial driver's license

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1 pursuant to the New Mexico Commercial Driver's License Act,
2 whose performance under the influence of drugs or alcohol would
3 constitute an immediate or direct threat of injury or death to
4 that person or another;

5 R. "telemedicine" means the use of
6 telecommunications and information technology to provide
7 clinical health care from a site apart from the site where the
8 patient is located, in real time or asynchronously, including
9 the use of interactive simultaneous audio and video or store-
10 and-forward technology, or off-site patient monitoring and
11 telecommunications in order to deliver health care services;

12 S. "THC" means delta-9-tetrahydrocannabinol, a
13 substance that is the primary psychoactive ingredient in
14 cannabis; and

15 T. "written certification" means a statement made
16 on a department-approved form and signed by a patient's
17 practitioner that indicates, in the practitioner's professional
18 opinion, that the patient has a debilitating medical condition
19 and the practitioner believes that the potential health
20 benefits of the medical use of cannabis would likely outweigh
21 the health risks for the patient."