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SENATE BILL

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

Siah Correa Hemphill

AN ACT

RELATING TO CANNABIS; AMENDING THE CANNABIS REGULATION ACT TO PROVIDE FOR A TEMPORARY PAUSE ON THE CANNABIS CONTROL DIVISION OF THE REGULATION AND LICENSING DEPARTMENT'S ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR NEW CANNABIS RETAILER LICENSES.

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

SECTION 1. Section 26-2C-7 NMSA 1978 (being Laws 2021 (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. In carrying out its commercial cannabis activity licensing duties, the division shall:

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

6 (2) no later than January 1, 2022, accept and  
7 begin processing license applications for all license types;  
8 provided that upon the effective date of this 2024 act and for  
9 seven months thereafter, the division shall not accept and  
10 process new applications for cannabis retailer licenses;

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

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

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

3 (b) natural lighting and energy  
4 efficiency measures; and

5 (c) renewable energy generation; and

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

16 C. Once the division deems an application complete,  
17 the division has ninety days to issue or deny a license  
18 application.

19 D. The division shall deny an application for an  
20 initial license or renewal if:

21 (1) the application does not include  
22 information required by the division; or

23 (2) the applicant or a controlling person of  
24 the applicant has been convicted of an offense that is  
25 substantially related to the qualifications, functions or

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

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

15 (1) a felony conviction involving fraud,  
16 deceit or embezzlement;

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

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

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

24 (3) any other offense as determined by the  
25 division.

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

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

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

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

25 J. The division shall adopt rules providing for

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1 submission of an applicant's fingerprints to the federal bureau  
2 of investigation to conduct a national criminal history  
3 background check and to the department of public safety to  
4 conduct a state criminal history check for the following  
5 licensees:

- 6 (1) cannabis manufacturer;
- 7 (2) cannabis producer;
- 8 (3) cannabis producer microbusiness;
- 9 (4) cannabis research laboratory;
- 10 (5) cannabis retailer;
- 11 (6) cannabis testing laboratory;
- 12 (7) integrated cannabis microbusiness; and
- 13 (8) vertically integrated cannabis  
14 establishment.

15 K. The division shall conduct national criminal  
16 history background checks and state criminal history checks on  
17 the following:

- 18 (1) if an applicant is a limited partnership,  
19 each partner of the limited partnership;
- 20 (2) if the applicant is a limited liability  
21 company, each member of the limited liability company;
- 22 (3) if the applicant is a corporation, each  
23 director and officer of the corporation; and
- 24 (4) any controlling person of the applicant.

25 L. Arrest record information received from the

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1 federal bureau of investigation and the department of public  
2 safety shall be confidential, shall not be considered a public  
3 record pursuant to the Public Records Act and shall not be  
4 disclosed to persons not directly involved in the decision  
5 affecting the applicant.

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

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