

1 SENATE BILL 269

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO MEDICAL CANNABIS; CLARIFYING WHEN DRUG TESTING FOR  
12 CANNABIS IS ALLOWED FOR EMPLOYEES WHO ARE QUALIFIED PATIENTS  
13 PURSUANT TO THE LYNN AND ERIN COMPASSIONATE USE ACT; PROVIDING  
14 PROTECTIONS AGAINST ADVERSE EMPLOYMENT ACTIONS; PROVIDING  
15 REQUIREMENTS FOR DETERMINING IMPAIRMENT; REQUIRING THE  
16 DEPARTMENT OF HEALTH AND THE WORKFORCE SOLUTIONS DEPARTMENT TO  
17 DEVELOP GUIDELINES FOR EMPLOYERS.

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

20 SECTION 1. Section 26-2B-9 NMSA 1978 (being Laws 2019,  
21 Chapter 247, Section 11) is amended to read:

22 "26-2B-9. EMPLOYMENT PROTECTIONS.--

23 A. Unless a failure to do so would cause the  
24 employer to lose a monetary or licensing-related benefit under  
25 federal law or federal regulations, it is unlawful to take an

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1 adverse employment action against an applicant or an employee  
2 based on conduct allowed under the Lynn and Erin Compassionate  
3 Use Act. An employee shall not be considered to be impaired by  
4 cannabis solely because of the presence of metabolites or  
5 components of cannabis.

6 B. Random drug testing of an employee shall not  
7 include testing for cannabis. An employer may require a drug  
8 test for cannabis if the employer has a reasonable suspicion of  
9 the employee's impairment by cannabis at work or after an  
10 accident involving the employee and at least one other person  
11 or an accident causing significant damage to property if the  
12 employer has a reasonable suspicion of the employee's  
13 impairment by cannabis at the time of the accident. The  
14 employer shall follow the cannabis impairment guidelines when  
15 testing for cannabis impairment.

16 ~~[B.]~~ C. Nothing in this section shall ~~[(1)]~~  
17 restrict an employer's ability to prohibit or to take an  
18 adverse employment action against an employee for use of or  
19 being impaired by ~~[medical]~~ cannabis on the premises of the  
20 place of employment or during the hours of employment ~~[or~~

21 ~~(2) apply to an employee whose employer deems~~  
22 ~~that the employee works in a safety-sensitive position].~~

23 D. Defining "cannabis impairment" is the  
24 responsibility of the employer. The department of health shall  
25 assist the workforce solutions department in developing

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1 cannabis impairment guidelines that are based on the most  
2 reliable research- or evidence-based cannabis impairment  
3 indicators, including the evaluation of physical symptoms and  
4 psychomotor and cognitive performance. The workforce solutions  
5 department shall inform private employers of this section and  
6 provide information related to the most recent advances in  
7 testing protocols for determining cannabis impairment. The  
8 department of finance and administration shall disseminate the  
9 cannabis impairment guidelines to state agencies and political  
10 subdivisions of the state.

11 E. As used in this section:

12 (1) "employee" means an employee who is also a  
13 qualified patient pursuant to the Lynn and Erin Compassionate  
14 Use Act; and

15 (2) "employer" includes an agent of the  
16 employer."