

1 HOUSE BILL 326

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 James G. Townsend and Candy Spence Ezzell

10 AN ACT

11 RELATING TO MEDICAL CANNABIS; PROVIDING FOR LOCAL APPROVAL OF
12 THE PROPOSED LOCATION FOR A LICENSED PRODUCER.

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

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

17 "26-2B-1. SHORT TITLE.--~~[Sections 1 through 7 of this~~
18 ~~act]~~ Chapter 26, Article 2B NMSA 1978 may be cited as the "Lynn
19 and Erin Compassionate Use Act" in honor of Lynn Pierson and
20 Erin Armstrong."

21 SECTION 2. A new section of the Lynn and Erin
22 Compassionate Use Act is enacted to read:

23 "[NEW MATERIAL] ISSUANCE OF PRODUCER LICENSE--APPROVAL OF
24 APPROPRIATE GOVERNING BODY.--

25 A. On and after July 1, 2016, prior to the approval

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1 of the issuance of a new producer license to a person other
2 than a qualified patient for personal production, the secretary
3 of health shall notify the governing body of the municipality
4 or, if not in a municipality, of the county in which the
5 proposed license will be located of the address of the proposed
6 location and of the secretary's intent to approve the issuance
7 of the license for that location. Notice to the governing body
8 shall be by certified mail.

9 B. A governing body that has received a notice of
10 the intent to approve the issuance of a license from the
11 secretary of health may, in accordance with the provisions of
12 this section, approve the location for the license or may
13 disapprove of the location and identify available and
14 appropriate locations within its jurisdiction that the
15 secretary of health and the governing body would approve.

16 C. Within forty-five days after receipt of a notice
17 of intent to approve from the secretary, the governing body
18 shall hold a public hearing on the question of whether the
19 governing body should approve the proposed location for the
20 issuance of a producer's license.

21 D. The governing body shall give notice of the
22 public hearing, as required by Subsection C of this section,
23 and the notice shall:

24 (1) be published at least twice, with the
25 initial notice published at least thirty days before the

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1 hearing, in a newspaper of general circulation within the
2 territorial limits of the governing body;

3 (2) in addition to required print publication,
4 be published on the governing body's website, if the governing
5 body has a website;

6 (3) set forth:

7 (a) the date, time and place of the
8 hearing;

9 (b) the name and address of the
10 licensee;

11 (c) the action proposed to be taken by
12 the secretary of health;

13 (d) the licensee's proposed location;
14 and

15 (e) other information as may be required
16 by the secretary of health; and

17 (4) be sent by certified mail to the applicant
18 for the producer's license.

19 E. The governing body may designate a hearing
20 officer to conduct the hearing. A record shall be made of the
21 hearing.

22 F. The governing body may disapprove the location
23 for the license if:

24 (1) the proposed location is within an area
25 where the sale of cannabis is prohibited by the laws of New

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1 Mexico;

2 (2) the proposed location would be in
3 violation of a zoning or other ordinance of the governing body;
4 or

5 (3) the proposed location would be detrimental
6 to the public health, safety or morals of the residents of the
7 municipality or county.

8 G. Within thirty days after the public hearing, the
9 governing body shall notify the secretary of health as to
10 whether the governing body has approved or disapproved the
11 proposed location for the license. If the governing body fails
12 to either approve or disapprove the proposed location for the
13 license within thirty days after the public hearing, the
14 secretary may give final approval to the issuance of the
15 license.

16 H. If the governing body disapproves the proposed
17 location of the license, it shall notify the secretary of
18 health within the time required by Subsection G of this section
19 setting forth the reasons for the disapproval and identifying
20 available and appropriate locations within its jurisdiction
21 that it would approve for the producer's license and that are
22 acceptable to the secretary. A copy of the minutes of the
23 public hearing shall be submitted to the secretary by the
24 governing body with the notice of disapproval. Unless the
25 proposed licensee accepts another location pursuant to

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1 Subsection I of this section, if the governing body disapproves
2 of the proposed location of the license, the secretary shall
3 disapprove the issuance of the license.

4 I. If the proposed licensee notifies the secretary
5 of health in writing within thirty days of the notice of the
6 governing body's disapproval that the proposed licensee accepts
7 a location identified by the governing body, the secretary
8 shall approve the license.

9 J. If the governing body approves the issuance or
10 transfer of the license, it shall notify the department within
11 the time required by Subsection G of this section of its
12 approval. If the governing body approves of the issuance of
13 the license, the secretary of health shall approve the issuance
14 of the license."