

SENATE TAX, BUSINESS AND TRANSPORTATION  
COMMITTEE SUBSTITUTE FOR  
SENATE BILL 100

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

AN ACT

RELATING TO CANNABIS REGULATION; DEFINING TERMS; INCREASING THE  
NUMBER OF CANNABIS PLANTS FOR A CANNABIS PRODUCER MICROBUSINESS  
AND INTEGRATED CANNABIS MICROBUSINESS; SPECIFYING THE PROCESS  
OF CRIMINAL HISTORY RECORDS CHECKS; REQUIRING LICENSEES TO BE  
AT LEAST TWENTY-ONE YEARS OF AGE; PROVIDING AN EXCEPTION;  
PROVIDING MANDATORY MINIMUM TRAINING REQUIREMENTS FOR LICENSEES  
AND THEIR EMPLOYEES; PROHIBITING THE SALE OF CANNABIS AND  
ALCOHOLIC BEVERAGES ON THE SAME PREMISES; PROVIDING FOR A JOINT  
POWERS AGREEMENT BETWEEN THE REGULATION AND LICENSING  
DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENT FOR INSPECTIONS OF  
CANNABIS FACILITIES THAT PRODUCE EDIBLE AND TOPICAL CANNABIS  
PRODUCTS; CLARIFYING BUSINESS LOCATION REPORTING FOR TAX  
PURPOSES; AUTHORIZING CERTAIN NONPROFIT MEDICAL CANNABIS  
PRODUCERS TO CONVERT THEIR NONPROFIT CORPORATION STATUS TO FOR-  
PROFIT CORPORATION STATUS AND TRANSFER ASSETS.

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

SECTION 1. 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 2. 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 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

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

6 B. "applicant" means a person seeking licensure;

7 [~~B.~~] C. "cannabis":

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

15 (2) does not include:

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

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

25 [~~C.~~] D. "cannabis consumption area" means an area

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1 where cannabis products may be served and consumed;

2           ~~[D.]~~ E. "cannabis courier" means a person that  
3 transports cannabis products to qualified patients, primary  
4 caregivers or reciprocal participants or directly to consumers;

5           ~~[E.]~~ F. "cannabis establishment" means:

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

13                   (7) a cannabis producer microbusiness; or

14                   (8) an integrated cannabis microbusiness;

15           ~~[F.]~~ G. "cannabis extract":

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

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

22           ~~[G.]~~ H. "cannabis flowers" means only the flowers  
23 of a cannabis plant;

24           ~~[H.]~~ I. "cannabis manufacturer" means a person  
25 that:

- 1 (1) manufactures cannabis products;
- 2 (2) packages cannabis products;
- 3 (3) has cannabis products tested by a cannabis
- 4 testing laboratory; or

- 5 (4) purchases, acquires, sells or transports
- 6 wholesale cannabis products to other cannabis establishments;

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

- 8 (1) cultivates cannabis plants;
- 9 (2) has unprocessed cannabis products tested
- 10 by a cannabis testing laboratory;

- 11 (3) transports unprocessed cannabis products
- 12 only to other cannabis establishments; or

- 13 (4) sells cannabis products wholesale;

14 ~~[J.]~~ K. "cannabis producer microbusiness" means a

15 cannabis producer at a single licensed premises that possesses

16 no more than ~~[two hundred]~~ one thousand total mature cannabis

17 plants at any one time;

18 ~~[K.]~~ L. "cannabis product" means a product that is

19 or that contains cannabis or cannabis extract, including edible

20 or topical products that may also contain other ingredients;

21 ~~[L.]~~ M. "cannabis research laboratory" means a

22 facility that produces or possesses cannabis products and all

23 parts of the plant genus Cannabis for the purpose of studying

24 cannabis cultivation, characteristics or uses;

25 ~~[M.]~~ N. "cannabis retailer" means a person that

1 sells cannabis products to qualified patients, primary  
2 caregivers or reciprocal participants or directly to consumers;

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

7 [O-] P. "cannabis server permit education provider"  
8 means a person that provides cannabis server education courses  
9 and examinations;

10 [P-] Q. "cannabis testing laboratory" means a  
11 person that samples, collects and tests cannabis products and  
12 transports cannabis products for ~~[the purpose of]~~ testing;

13 [Q-] R. "cannabis training and education program"  
14 means a practical or academic curriculum offered by a New  
15 Mexico public post-secondary educational institution and  
16 approved by the division that is designed to prepare students  
17 for participation in the cannabis industry;

18 [R-] S. "commercial cannabis activity:

19 (1) means the cultivation, production,  
20 possession, manufacture, storage, testing, researching,  
21 labeling, transportation, couriering, purchase for resale, sale  
22 or consignment of cannabis products; and

23 (2) does not include activities related only  
24 to the medical cannabis program, to cannabis training and  
25 education programs or to the personal cultivation or use of

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1 cannabis;

2           ~~[S.]~~ T. "consumer" means a person twenty-one years  
3 of age or older who purchases, acquires, owns, possesses or  
4 uses a cannabis product for a purpose other than resale;

5           ~~[F.]~~ U. "contaminant" means pesticides and other  
6 foreign material, such as hair, insects or other similar  
7 adulterants, in harvested cannabis;

8           ~~[U.]~~ V. "controlling person":

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

12                   (2) does not include a bank or licensed  
13 lending institution;

14           ~~[V.]~~ W. "cultivation" means any activity involving  
15 the planting, growing, harvesting, drying, curing, grading or  
16 trimming of cannabis;

17           ~~[W.]~~ X. "department" means the regulation and  
18 licensing department;

19           ~~[X.]~~ Y. "director" means the director of the  
20 division;

21           ~~[Y.]~~ Z. "division" means the cannabis control  
22 division of the department;

23           ~~[Z.]~~ AA. "dry weight basis", when used in the  
24 context of regulation of commercial cannabis activity, means a  
25 process by which delta-9-tetrahydrocannabinol concentration is

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1 measured relative to the aggregate weight of all parts of the  
2 plant genus Cannabis, whether growing or not, including the  
3 leaves of the plant, the flowers and buds of the plant, the  
4 seeds of the plant, the resin of the plant and the stalks of  
5 the plant at the point of harvest by a licensee and with no  
6 moisture added to the harvested plant;

7           ~~[AA-]~~ BB. "facility" means a building, space or  
8 grounds licensed for the production, possession, testing,  
9 manufacturing or distribution of cannabis, cannabis extracts or  
10 cannabis products;

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

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

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

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

24           ~~[FF-]~~ GG. "industry standards" means the prevailing  
25 customary standards of business practice in the cannabis

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1 industry in jurisdictions within the United States;

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

5 (1) production of cannabis at a single  
6 licensed premises; provided that the person shall not possess  
7 more than ~~[two hundred]~~ one thousand total mature cannabis  
8 plants at any one time;

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

11 ~~[(3) sales and transportation of only cannabis  
12 products produced or manufactured by that person;~~

13 ~~(4)]~~ (3) operation of only one retail  
14 establishment; and

15 ~~[(5)]~~ (4) couriering of cannabis products to  
16 qualified patients, primary caregivers or reciprocal  
17 participants or directly to consumers;

18 ~~[HH-]~~ II. "licensed premises" means a location that  
19 includes:

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

23 (2) all areas outside of a building that are  
24 specifically included in the license for the production,  
25 manufacturing, wholesale sale, ~~[or]~~ retail sale or consumption

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1 of cannabis products; and

2 (3) with respect to a location that is  
3 specifically licensed for the production of cannabis outside of  
4 a building, the entire unit of land that is created by  
5 subsection or partition of land that the licensee owns, leases  
6 or has a right to occupy;

7 JJ. "licensee" means the person that is licensed;

8 [~~HH.~~] KK. "local jurisdiction" means a  
9 municipality, home rule municipality or county;

10 [~~JJ.~~] LL. "manufacture" means to compound, blend,  
11 extract, infuse, package or otherwise prepare a cannabis  
12 product;

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

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

19 [~~MM.~~] OO. "medical cannabis registry" means the  
20 system by which the department of health approves or denies  
21 applications and issues and renews registry identification  
22 cards for qualified patients;

23 [~~NN.~~] PP. "primary caregiver" means a resident of  
24 New Mexico who is at least eighteen years of age and who is  
25 responsible for managing the well-being of a qualified patient

1 with respect to the medical use of cannabis pursuant to the  
2 Lynn and Erin Compassionate Use Act;

3 ~~[QQ-]~~ QQ. "public place" means a place to which the  
4 general public has access and includes hallways, lobbies and  
5 other parts of hotels and apartment houses [~~and hotels~~] that do  
6 not constitute rooms or apartments designed for actual  
7 residence; highways; streets; schools; places of amusement;  
8 parks; playgrounds; and places used in connection with public  
9 passenger transportation;

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

13 ~~[QQ-]~~ SS. "reciprocal participant" means a person  
14 who is not a resident of New Mexico and who holds proof of  
15 enrollment by a governmental regulatory authority to  
16 participate in the medical cannabis program of another state of  
17 the United States, the District of Columbia or a territory or  
18 commonwealth of the United States in which the person resides  
19 or a person who holds proof of enrollment by a governmental  
20 regulatory authority of a New Mexico Indian nation, tribe or  
21 pueblo to participate in its medical cannabis program;

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

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1           ~~[SS-]~~ UU. "superintendent" means the superintendent  
2 of regulation and licensing;

3           ~~[FF-]~~ VV. "unprocessed" means unaltered from an  
4 original, raw or natural state; and

5           ~~[UU-]~~ WW. "vertically integrated cannabis  
6 establishment" means a person that is authorized to act as any  
7 of the following:

8                   (1) a cannabis courier;

9                   (2) a cannabis manufacturer;

10                  (3) a cannabis producer; and

11                  (4) a cannabis retailer."

12           **SECTION 3.** Section 26-2C-3 NMSA 1978 (being Laws 2021  
13 (1st S.S.), Chapter 4, Section 3) is amended to read:

14           "26-2C-3. ~~DIVISION--POWERS AND DUTIES--RULEMAKING--~~JOINT  
15 POWERS AGREEMENT WITH DEPARTMENT OF ENVIRONMENT--ADVISORY  
16 COMMITTEE CREATED--MEMBERSHIP--DUTIES.--

17           A. The "cannabis control division" is created in  
18 the department to administer the Cannabis Regulation Act and  
19 the licensing provisions of the Lynn and Erin Compassionate Use  
20 Act and rules promulgated in accordance with those acts. Rules  
21 shall be adopted and promulgated as provided in the State Rules  
22 Act.

23           B. No later than January 1, 2022, the division  
24 shall promulgate rules that are consistent with industry  
25 standards necessary for the division to carry out its duties

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1 pursuant to the Cannabis Regulation Act as follows:

2 (1) qualifications and procedures for  
3 licensure; provided that qualifications shall be directly and  
4 demonstrably related to the operation of the applicable  
5 cannabis establishment;

6 (2) security requirements for a cannabis  
7 establishment;

8 (3) requirements related to:

9 (a) inspection and monitoring of a  
10 cannabis establishment;

11 (b) a cannabis establishment's  
12 recordkeeping and tracking of cannabis from seed until sale;

13 (c) prevention of the sale or diversion  
14 of cannabis products in commercial cannabis activity to a  
15 person under the age of twenty-one;

16 (d) labeling of cannabis products  
17 packaged, sold or distributed by a cannabis establishment; and

18 (e) language for labels of cannabis  
19 products regarding potential adverse effects;

20 (4) rules providing that:

21 (a) a person who is twenty-one years old  
22 or older shall not purchase more than two ounces of cannabis,  
23 sixteen grams of cannabis extract and eight hundred milligrams  
24 of edible cannabis at one time; and

25 (b) as to commercial cannabis activity:

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1 1) a consumer shall not possess more than two ounces of  
2 cannabis, sixteen grams of cannabis extract and eight hundred  
3 milligrams of edible cannabis outside the consumer's private  
4 residence; 2) any cannabis in excess of the amounts described  
5 in Item 1) of this subparagraph shall be stored in the person's  
6 residence and shall not be visible from a public place; and 3)  
7 the division shall not limit the amount of tetrahydrocannabinol  
8 concentration in a cannabis product; provided that the division  
9 may adopt requirements for apportionment and packaging of  
10 cannabis products;

11 (5) rules on advertising and marketing of  
12 cannabis products;

13 (6) rules on how a licensee may display  
14 cannabis products for sale;

15 (7) procedures that promote and encourage full  
16 participation in the cannabis industry governed by the Cannabis  
17 Regulation Act by representatives of communities that have been  
18 disproportionately harmed by rates of arrest through the  
19 enforcement of cannabis prohibitions in law and policy, rural  
20 communities likely to be impacted by cannabis production and  
21 agricultural producers from economically disadvantaged  
22 communities;

23 (8) procedures that promote and encourage  
24 racial, ethnic, gender and geographic diversity and New Mexico  
25 residency among license applicants, licensees and cannabis

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1 industry employees;

2 (9) rules for a certification process to  
3 identify cannabis products for consumers from integrated  
4 cannabis microbusinesses or cannabis producer microbusinesses  
5 or owned by representatives of communities that have been  
6 disproportionately harmed by rates of arrest through the  
7 enforcement of cannabis prohibitions in law and policy and  
8 underserved communities that include tribal, acequia, land  
9 grant-merced and other rural historic communities;

10 (10) in consultation with the economic  
11 development department, development of a technical assistance  
12 resource guide for rural New Mexico residents who are seeking  
13 to establish vertically integrated cannabis establishments,  
14 cannabis producer microbusinesses or integrated cannabis  
15 microbusinesses;

16 (11) in consultation with the department of  
17 environment, rules to establish:

18 (a) health and safety standards  
19 applicable to the research, production and manufacture of  
20 cannabis products;

21 (b) standards for food and product  
22 safety applicable to cannabis products; and

23 (c) which additives are approved for and  
24 prohibited from inclusion in cannabis products; provided that  
25 nicotine shall be prohibited;

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1 (12) in consultation with the New Mexico  
2 department of agriculture and the department of environment,  
3 rules to establish standards for quality control, inspection  
4 and testing of cannabis products for potency and contaminants,  
5 except for cannabis produced or harvested for research purposes  
6 and not for ingestion; provided that all such rules and  
7 standards shall be consistent with the rules and standards for  
8 testing of medical cannabis products; and

9 (13) in consultation with the state fire  
10 marshal's office of the homeland security and emergency  
11 management department, rules with regard to health and safety  
12 of cannabis establishments.

13 C. No later than January 1, 2022, the division  
14 shall promulgate rules that are consistent with industry  
15 standards relating to cannabis training and education programs,  
16 including:

17 (1) qualifications and procedures for  
18 licensure; and

19 (2) physical security, cybersecurity and, if  
20 applicable, security of information collected under the federal  
21 Health Insurance Portability and Accountability Act of 1996  
22 requirements.

23 D. No later than January 1, 2022, the division  
24 shall promulgate rules in consultation with the New Mexico  
25 department of agriculture, the department of environment and

1 the office of the state engineer to establish:

- 2 (1) environmental protections; and  
3 (2) protocols to ensure licensees' compliance  
4 with state and local laws and ordinances governing food and  
5 product safety, occupational health and safety environmental  
6 impacts] natural resource protection, water use and quality,  
7 water supply, hazardous materials, pesticide use and wastewater  
8 discharge.

9 E. The department may enter into a joint powers  
10 agreement with the department of environment to ensure the  
11 health and safety of commercial facilities that produce edible  
12 or topical cannabis products.

13 [~~E-~~] F. No later than January 1, 2022, the division  
14 shall adopt rules in consultation with the department of health  
15 to establish standards and determinations on requirements for  
16 reserving cannabis products for sale to qualified patients,  
17 primary caregivers and reciprocal participants.

18 [~~F-~~] G. The division shall collect and publish  
19 annually on the division's website, and present to the  
20 appropriate interim committee of the legislature, a report  
21 describing demographic data on license applicants, controlling  
22 persons and employees of cannabis establishments, including  
23 race, ethnicity, gender, age, residential status and whether  
24 the applicants, persons, employees or the locations where the  
25 cannabis products are produced, manufactured, sold, tested or

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1 researched are located in an underserved rural community,  
2 including tribal, acequia, land grant-merced or other rural  
3 historic communities.

4 H. The division shall receive and maintain  
5 information and data from the department of public safety and  
6 the federal bureau of investigation related to licensing  
7 disqualifications based on criminal history.

8 ~~[G.]~~ I. The "cannabis regulatory advisory  
9 committee" shall be created no later than September 1, 2021.  
10 The committee shall advise the division on the development of  
11 rules pursuant to the Cannabis Regulation Act, including best  
12 practices and the promotion of economic and cultural diversity  
13 in licensing and employment opportunities and protection of  
14 public health and safety while ensuring a regulated environment  
15 for commercial cannabis activity that does not impose  
16 unreasonable barriers that would perpetuate, rather than reduce  
17 and eliminate, the illicit market for cannabis. A person  
18 appointed to the cannabis regulatory advisory committee shall  
19 not hold any ownership interest or investment in a licensed  
20 person pursuant to the Cannabis Regulation Act; provided that  
21 the superintendent may appoint a person who holds an ownership  
22 interest in a licensed person as a nonvoting member. The  
23 committee shall consist of the following members:

24 (1) the chief public defender or the chief  
25 public defender's designee;

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1 (2) a district attorney appointed by the New  
2 Mexico district attorney association;

3 (3) a municipal police chief appointed by the  
4 New Mexico association of chiefs of police;

5 (4) a county sheriff appointed by the  
6 executive director of the New Mexico association of counties;  
7 and

8 (5) one member for each of the following  
9 groups or professional qualifications, appointed by the  
10 superintendent:

11 (a) a cannabis policy advocacy  
12 organization;

13 (b) a labor organization;

14 (c) a qualified patient;

15 (d) a state or local agency with  
16 relevant expertise as the director and the superintendent deem  
17 appropriate;

18 (e) an Indian nation, tribe or pueblo  
19 with relevant expertise as the director and the superintendent  
20 deem appropriate;

21 (f) expertise in public health;

22 (g) expertise in regulating commercial  
23 activity for adult-use intoxicating substances;

24 (h) expertise and experience in cannabis  
25 laboratory science;

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- 1 (i) expertise in environmental science;  
2 (j) expertise in small business  
3 development;  
4 (k) expertise in water resources;  
5 (l) expertise in other relevant areas as  
6 the director and the superintendent deem appropriate; and  
7 (m) previous experience as a cannabis  
8 retailer, cannabis producer or cannabis manufacturer and who is  
9 a nonvoting member.

10 [~~H.~~] J. The cannabis regulatory advisory committee  
11 shall elect from among its members a chair and such other  
12 officers as it deems necessary. The committee shall meet at  
13 the call of the chair, the director or the superintendent. A  
14 majority of members currently serving constitutes a quorum for  
15 the conduct of business. Members shall serve at the pleasure  
16 of the superintendent.

17 [~~I.~~] K. Public voting members of the cannabis  
18 regulatory advisory committee are entitled to receive per diem  
19 and mileage as provided for state employees pursuant to the Per  
20 Diem and Mileage Act and shall receive no other compensation,  
21 perquisite or allowance.

22 [~~J.~~] L. The division shall:

- 23 (1) monitor the supply and demand of cannabis  
24 products produced in New Mexico by licensees and present  
25 annually to the appropriate interim committee of the

1 legislature the impacts of supply on illicit cannabis products  
 2 markets and adequate supply of cannabis products for qualified  
 3 patients and reciprocal participants;

4 (2) request the department of public safety to  
 5 enforce the provisions of the Cannabis Regulation Act as deemed  
 6 necessary; and

7 (3) undertake studies and conduct courses of  
 8 instruction for division employees that will improve the  
 9 operations of the division and advance its purposes."

10 SECTION 4. Section 26-2C-5 NMSA 1978 (being Laws 2021  
 11 (1st S.S.), Chapter 4, Section 5) is amended to read:

12 "26-2C-5. DEPARTMENT OF HEALTH--DUTIES--TRANSFER OF  
 13 LICENSING DUTIES.--Except for administration of the medical  
 14 cannabis registry, the power, duty and authority of the  
 15 department of health related to the medical cannabis program  
 16 shall be transferred to the division on [~~the effective date of~~  
 17 ~~the Cannabis Regulation Act~~] June 29, 2021."

18 SECTION 5. Section 26-2C-6 NMSA 1978 (being Laws 2021  
 19 (1st S.S.), Chapter 4, Section 6) is amended to read:

20 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--  
 21 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR  
 22 MEDICAL PROGRAM.--

23 A. The division shall regulate and administer and  
 24 may collect fees in connection with the administration of:

25 (1) commercial cannabis activity and licensing

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1 related to commercial cannabis activity;

2 (2) the medical cannabis program, except for  
3 the medical cannabis registry; and

4 (3) all aspects of cannabis relating to  
5 cannabis training and education programs.

6 B. The division shall follow the provisions of the  
7 Uniform Licensing Act when licensing or permitting the  
8 following:

- 9 (1) cannabis consumption areas;  
10 (2) cannabis couriers;  
11 (3) cannabis manufacturers;  
12 (4) cannabis producer microbusinesses;  
13 (5) cannabis producers;  
14 (6) cannabis research laboratories;  
15 (7) cannabis retailers;  
16 (8) cannabis servers;  
17 (9) cannabis testing laboratories;  
18 (10) cannabis training and education programs;  
19 (11) integrated cannabis microbusinesses; and  
20 (12) vertically integrated cannabis  
21 establishments.

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

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1 programs.

2 D. The division shall issue a license to a cannabis  
3 retailer applicant at a discount if the applicant provides  
4 documentation of an agreement to accept cannabis products on  
5 consignment from a cannabis producer microbusiness or an  
6 integrated cannabis microbusiness licensed pursuant the  
7 Cannabis Regulation Act.

8 E. A license is valid for twelve months from the  
9 date the license is issued and may be renewed annually, except  
10 that a license issued for a cannabis training and education  
11 program is valid until terminated by the licensee or suspended  
12 or revoked by the division.

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

18 (1) the licensee is not a delinquent taxpayer;

19 and

20 (2) there are no unfiled tax returns due from  
21 engaging in business authorized by the license.

22 G. No license shall be transferable or assignable  
23 from a licensee to another person, except that a nonprofit  
24 corporation that was incorporated in order to qualify for a  
25 license as a licensed nonprofit producer pursuant to department

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1 of health rules under the Lynn and Erin Compassionate Use Act  
2 may transfer its license in the following manner:

3 (1) the nonprofit corporation shall inform the  
4 division in writing of its desire to transfer its license to a  
5 for-profit corporation as provided in Section 12 of this 2022  
6 act;

7 (2) the nonprofit corporation shall specify to  
8 the division in writing the intended recipient corporation of  
9 the license and all controlling persons of the recipient  
10 corporation;

11 (3) the controlling persons of the recipient  
12 corporation shall provide any information to the division that  
13 would otherwise be required of the controlling persons of a  
14 cannabis license applicant;

15 (4) upon receipt of the required information  
16 from the controlling persons of the recipient corporation, the  
17 division shall transfer the license by issuing new license  
18 certificates in the name of the recipient corporation;

19 (5) the division shall issue a statement to  
20 both the nonprofit corporation and the new licensee stating  
21 that the transfer has occurred;

22 (6) the transferred license shall remain in  
23 effect for the same period that the nonprofit corporation's  
24 license would have been effective; and

25 (7) the transferred license shall be eligible

1 for renewal on the same date that the nonprofit corporation's  
2 license would have been eligible for renewal.

3 H. The division shall not allow a person that is  
4 licensed as any type of cannabis establishment other than a  
5 cannabis research laboratory to hold, directly or indirectly, a  
6 cannabis testing laboratory license.

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

18 [~~H.~~] J. Except as otherwise provided in the  
19 Cannabis Regulation Act, the division shall not limit the  
20 number of licensed premises a licensee may occupy or operate  
21 under a license. Multiple licensees may occupy a single  
22 licensed premises, and the division shall not place any  
23 restriction or prohibition on the number of licensees occupying  
24 a single licensed premises or on the number of licensed  
25 premises of a cannabis establishment except as otherwise

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1 specifically provided for by the Cannabis Regulation Act.  
2 Except as otherwise provided in this subsection, a licensee may  
3 conduct any lawful activity or any combination of lawful  
4 activities at a licensed premises [~~provided that the licensee~~  
5 ~~is not a licensee pursuant to the Liquor Control Act~~].  
6 Cannabis and alcoholic beverages shall not be sold or consumed  
7 on the same premises.

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

15           ~~[J.]~~ L. Licensees are specifically allowed to  
16 conduct other licensed activities, including activities  
17 pursuant to the Hemp Manufacturing Act [~~except for sales of~~  
18 ~~alcoholic beverages~~] and the Liquor Control Act, except that a  
19 licensee that also holds a license pursuant to the Liquor  
20 Control Act shall not co-locate any cannabis- and alcohol-  
21 related licensed activities.

22           ~~[K.]~~ M. A person properly licensed and in good  
23 standing pursuant to the Lynn and Erin Compassionate Use Act on  
24 the effective date of the Cannabis Regulation Act may continue  
25 to operate under that license for medical cannabis until

1 comparable licenses for commercial cannabis activity are  
2 available. The division shall determine when retail sales of  
3 commercial cannabis products begin, but no later than April 1,  
4 2022. A facility of such a licensee, upon issuance of the  
5 applicable cannabis establishment license, shall constitute  
6 licensed premises of the licensee and the licensee shall be  
7 entitled to continued and uninterrupted operations of the  
8 licensed premises. As to activity under the medical cannabis  
9 program, the licensee shall continue to operate under rules  
10 promulgated for the medical cannabis program until the division  
11 promulgates rules for medical cannabis activity, except that a  
12 qualified patient, a primary caregiver and a reciprocal  
13 participant shall not be prohibited from purchasing and  
14 obtaining cannabis products pursuant to the medical cannabis  
15 program.

16 ~~[E-]~~ N. To address a shortage of cannabis supply in  
17 the medical cannabis program, the division may:

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

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

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

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

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

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

20 ~~[M-]~~ O. As used in this section, "shortage of  
21 cannabis supply in the medical cannabis program" means that the  
22 average number of cannabis plants in production in the medical  
23 cannabis program per qualified patient after the effective date  
24 of the Cannabis Regulation Act is substantially less than the  
25 average number of cannabis plants in production in the medical

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1 cannabis program per qualified patient as of the effective date  
2 of the Cannabis Regulation Act, where:

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

6 (2) the average number of cannabis plants in  
7 production as of the effective date of the Cannabis Regulation  
8 Act is measured over a period of three consecutive months  
9 immediately preceding the effective date of the Cannabis  
10 Regulation Act.

11 ~~[N-]~~ P. A person who is a member of the New Mexico  
12 senate or the New Mexico house of representatives on the  
13 effective date of the Cannabis Regulation Act shall not apply  
14 for or be granted a license to engage in any commercial  
15 cannabis activity prior to July 1, 2026."

16 **SECTION 6.** Section 26-2C-7 NMSA 1978 (being Laws 2021  
17 (1st S.S.), Chapter 4, Section 7) is amended to read:

18 "26-2C-7. COMMERCIAL CANNABIS ACTIVITY LICENSING--  
19 APPLICATION--ISSUANCE AND DENIAL OF A LICENSE--CRIMINAL HISTORY  
20 RECORDS CHECKS.--

21 A. A license issued pursuant to the Cannabis  
22 Regulation Act shall not be subject to execution, attachment, a  
23 security transaction, liens or receivership.

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

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

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

25 (b) natural lighting and energy

1 efficiency measures; and

2 (c) renewable energy generation; and

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

13 C. An application for licensure shall be signed by  
14 the applicant or, if the applicant is a corporation or other  
15 legal entity, signed by an officer or other person with legal  
16 authority to sign documents for the corporation or other legal  
17 entity. Once the division deems an application complete, the  
18 division has ninety days to issue or deny a license  
19 application.

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

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

24 (2) the applicant or a controlling person of  
25 the applicant has been convicted of an offense that is

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

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

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

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

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

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

25 (3) any other offense as determined by the

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1 division.

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

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

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

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

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

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

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

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

1           J. To investigate the suitability of an applicant  
2 for licensure for the medical cannabis program or commercial  
3 cannabis activity, the division shall have access to criminal  
4 history records information furnished by the department of  
5 public safety and the federal bureau of investigation, subject  
6 to any restrictions imposed by federal law.

7           K. An applicant for a license to conduct commercial  
8 cannabis activity shall undergo a state and federal criminal  
9 history records check, and the applicant shall submit an  
10 electronic set of fingerprints to the department of public  
11 safety for that purpose. The department of public safety shall  
12 conduct a check of state records and forward the fingerprints  
13 to the federal bureau of investigation for a national criminal  
14 history records check to determine the existence and content of  
15 a record of convictions and arrests in this state or other law  
16 enforcement jurisdictions and to generate a criminal history  
17 records check in accordance with rules of the department of  
18 public safety and regulations of the federal bureau of  
19 investigation. The department of public safety shall review  
20 the information obtained from the criminal history records  
21 check and shall compile and provide that information to the  
22 division. The division shall use the information resulting  
23 from the fingerprint-based criminal history records check to  
24 investigate and determine whether an applicant is qualified to  
25 hold a cannabis license.

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1           L. ~~[Arrest record]~~ Criminal history information  
2 received from the department of public safety or the federal  
3 bureau of investigation ~~[and the department of public safety]~~  
4 shall be confidential, shall not be considered a public record  
5 pursuant to the Public Records Act and shall not be disclosed  
6 to ~~[persons not]~~ anyone other than public employees directly  
7 involved in the decision affecting the applicant.

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

10           SECTION 7. Section 26-2C-8 NMSA 1978 (being Laws 2021  
11 (1st S.S.), Chapter 4, Section 8) is amended to read:

12           "26-2C-8. LICENSEES--DISCIPLINARY ACTIONS--SANCTIONS--  
13 CIVIL PENALTY.--

14           A. A violation of the provisions of the Cannabis  
15 Regulation Act or rules promulgated in accordance with that act  
16 by a licensee or permittee is grounds for disciplinary action.

17           B. The division may:

- 18                   (1) impose an intermediate sanction  
19 established by rule;  
20                   (2) impose a directed plan of correction;  
21                   (3) assess a civil monetary penalty  
22 established by rule; provided that a civil monetary penalty  
23 shall not exceed ten thousand dollars (\$10,000) per violation;  
24 and provided further that penalties and interest recovered  
25 pursuant to the Cannabis Regulation Act on behalf of the state

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1 shall be remitted to the state treasurer for deposit in the  
2 current school fund; or

3 (4) suspend or revoke the license.

4 C. Repeated violations of serious and substantial  
5 rules pertaining to public health and safety may result in  
6 license suspension.

7 [~~E.~~] D. The division shall promulgate rules  
8 specifying the criteria for imposition of sanctions and civil  
9 monetary penalties.

10 [~~D.~~] E. The provisions of this section do not apply  
11 to occupational health and safety rules promulgated pursuant to  
12 Section [~~3 of the Cannabis Regulation Act~~] 26-2C-3 NMSA 1978.

13 [~~E.~~] F. A person aggrieved by an action taken by  
14 the division pursuant to this section may request and receive a  
15 hearing with the superintendent for the purpose of reviewing  
16 the action in accordance with the Uniform Licensing Act."

17 **SECTION 8.** Section 26-2C-10 NMSA 1978 (being Laws 2021  
18 (1st S.S.), Chapter 4, Section 10) is amended to read:

19 "26-2C-10. CANNABIS TRAINING AND EDUCATION PROGRAM  
20 LICENSING [~~SANCTIONS~~]--MANDATORY EDUCATION--PROVIDERS.--

21 A. The division shall begin licensing cannabis  
22 training and education programs no later than January 1, 2022.

23 [~~B. The division may suspend a license for repeated~~  
24 ~~violations of the same serious and substantial rule promulgated~~  
25 ~~pursuant to the Cannabis Regulation Act pertaining to public~~

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1 ~~health and safety.]~~

2 B. The division may provide by rule for mandatory  
3 education for licensees and employees of licensees.  
4 Certificates of completion of mandatory education shall be  
5 maintained by each licensee for employees and open to  
6 inspection by the division. The division may contract with a  
7 training and education program or other qualified training  
8 provider to provide mandatory education."

9 SECTION 9. Section 26-2C-14 NMSA 1978 (being Laws 2021  
10 (1st S.S.), Chapter 4, Section 14) is amended to read:

11 "26-2C-14. PROTECTION OF UNDERAGE PERSONS--PROVIDING  
12 CANNABIS PRODUCTS TO MINORS--PENALTIES.--

13 A. Except as allowed pursuant to the Cannabis  
14 Regulation Act, it is a violation of that act for a person,  
15 including a person licensed pursuant to the provisions of that  
16 act, or an employee, agent or lessee of that person, if the  
17 person knows or has reason to know that the person is violating  
18 the provisions of this section, to knowingly and intentionally:

19 (1) sell, serve or give cannabis products to a  
20 person under twenty-one years of age or allow a person under  
21 twenty-one years of age to consume cannabis products on the  
22 licensed premises;

23 (2) buy cannabis products for or procure the  
24 sale or service of cannabis products to a person under twenty-  
25 one years of age;

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1 (3) deliver cannabis products to a person  
2 under twenty-one years of age; or

3 (4) aid or assist a person under twenty-one  
4 years of age to buy, otherwise procure or be served cannabis  
5 products.

6 B. A licensee shall not employ a person younger  
7 than twenty-one years of age to engage in a medical or  
8 commercial cannabis activity except that if a licensee employed  
9 a person younger than twenty-one years of age, but not younger  
10 than eighteen years of age, before the effective date of this  
11 2022 act, that person may continue employment in the same  
12 position with that licensee. A licensee that employs a person  
13 younger than twenty-one years of age who is not grandfathered  
14 as provided in this subsection is subject to disciplinary  
15 action by the division.

16 C. The division shall suspend or revoke the license  
17 and may fine the licensee in an amount not to exceed ten  
18 thousand dollars (\$10,000), or both, when the division finds  
19 that a licensee or the licensee's employee or agent knowingly  
20 has sold, served or given any cannabis product to a person  
21 under twenty-one years of age.

22 D. The establishment of all of the following facts  
23 by a licensee prosecuted for a violation of Subsection [D] A of  
24 this section and a cannabis server for a violation of  
25 Subsection F of Section [~~11 of the Cannabis Regulation Act~~]

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1 26-2C-11 NMSA 1978 shall constitute a defense:

2 (1) that the purchaser falsely represented in  
3 writing; by producing a driver's license bearing the  
4 purchaser's photograph; by producing a photographic  
5 identification card issued by the motor vehicle division of the  
6 taxation and revenue department; or by producing a similar  
7 identification card issued pursuant to the laws of this state,  
8 another state, the federal government or the government of an  
9 Indian nation, tribe or pueblo that the person was twenty-one  
10 years of age or older;

11 (2) that the purchaser's appearance was such  
12 that an ordinary, prudent person would believe that the  
13 purchaser was twenty-one years of age or older; and

14 (3) that the sale was made in good faith,  
15 relying upon the purchaser's false written representation,  
16 driver's license or identification card produced as provided in  
17 Paragraph (1) of this subsection, and with the reasonable  
18 belief that the purchaser was actually twenty-one years of age  
19 or older.

20 E. Nothing in this section shall be construed or  
21 interpreted to prevent:

22 (1) the division from enforcing its rules  
23 against a licensee;

24 (2) a state agency from enforcing a law or  
25 rule that does not conflict with the Cannabis Regulation Act or

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1 rules promulgated pursuant to that act; or

2 (3) a local jurisdiction from enforcing a  
3 local ordinance that does not conflict with the Cannabis  
4 Regulation Act or rules promulgated pursuant to that act."

5 SECTION 10. Section 7-1-6.68 NMSA 1978 (being Laws 2021  
6 (1st S.S.), Chapter 4, Section 50) is amended to read:

7 "7-1-6.68. DISTRIBUTION--CANNABIS EXCISE TAX--  
8 MUNICIPALITIES AND COUNTIES.--

9 A. A distribution pursuant to Section 7-1-6.1 NMSA  
10 1978 shall be made to each municipality, subject to any  
11 increase or decrease made pursuant to Section 7-1-6.15 NMSA  
12 1978, in an amount equal to thirty-three and thirty-three  
13 hundredths percent of the net receipts attributable to the  
14 cannabis excise tax from [~~cannabis retailers~~] business  
15 locations within the municipality as reported pursuant to  
16 Section 7-42-4 NMSA 1978.

17 B. A distribution pursuant to Section 7-1-6.1 NMSA  
18 1978 shall be made to each county in an amount equal to thirty-  
19 three and thirty-three hundredths percent of the net receipts  
20 attributable to the cannabis excise tax from [~~cannabis~~  
21 ~~retailers~~] business locations within the county area of the  
22 county as reported pursuant to Section 7-42-4 NMSA 1978.

23 C. The department may deduct an amount not to  
24 exceed three percent of the distributions made pursuant to this  
25 section for the reasonable costs for administering the

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1 distributions.

2 D. As used in this section, "county area" means  
3 that portion of a county located outside the boundaries of any  
4 municipality."

5 SECTION 11. Section 7-42-4 NMSA 1978 (being Laws 2021  
6 (1st S.S.), Chapter 4, Section 46) is amended to read:

7 "7-42-4. DATE PAYMENT DUE--BUSINESS LOCATION  
8 REPORTING.--

9 A. The cannabis excise tax is to be paid on or  
10 before the twenty-fifth day of the month following the month in  
11 which the taxable sale occurs.

12 B. A cannabis retailer that sells cannabis products  
13 in this state shall report the sale to the proper business  
14 location at the following locations:

15 (1) if the cannabis product is received by the  
16 purchaser at the New Mexico business location of the cannabis  
17 retailer, the location of the cannabis retailer;

18 (2) if the cannabis product is not received by  
19 the purchaser at a business location of the cannabis retailer,  
20 the location indicated by instructions for delivery to the  
21 purchaser, or the purchaser's donee, when known to the cannabis  
22 retailer;

23 (3) if Paragraphs (1) and (2) of this  
24 subsection do not apply, the location indicated by an address  
25 for the purchaser available from the business records of the

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1 cannabis retailer that are maintained in the ordinary course of  
2 business; provided that use of the address does not constitute  
3 bad faith;

4 (4) if Paragraphs (1) through (3) of this  
5 subsection do not apply, the location for the purchaser  
6 obtained during consummation of the sale, including the address  
7 of a purchaser's payment instrument if no other address is  
8 available; provided that use of this address does not  
9 constitute bad faith; or

10 (5) if Paragraphs (1) through (4) of this  
11 subsection do not apply, including a circumstance in which the  
12 cannabis retailer is without sufficient information to apply  
13 those standards, the location from which the cannabis product  
14 is shipped or transmitted."

15 SECTION 12. A new section of the Nonprofit Corporation  
16 Act is enacted to read:

17 "[NEW MATERIAL] CONVERSION OF MEDICAL CANNABIS NONPROFIT  
18 CORPORATIONS TO FOR-PROFIT STATUS--TIME LIMITATION.--

19 A. Until December 1, 2023, a nonprofit corporation  
20 that was incorporated in order to qualify for a license as a  
21 licensed nonprofit producer pursuant to department of health  
22 rules under the Lynn and Erin Compassionate Use Act may convert  
23 to a for-profit corporation as follows:

24 (1) the terms and conditions of the conversion  
25 from nonprofit to for-profit corporation shall be approved by

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1 all members of the board of directors of the nonprofit  
2 corporation;

3 (2) an agreement of conversion shall set forth  
4 the terms and conditions of any ownership interests in the for-  
5 profit corporation; and

6 (3) the assets of the nonprofit corporation  
7 shall be applied and distributed as follows if the corporation  
8 did not have a federal tax exemption as a nonprofit  
9 corporation:

10 (a) all liabilities and obligations of  
11 the corporation shall be paid and discharged or adequate  
12 provision shall be made for payment and discharge;

13 (b) assets held by the corporation upon  
14 condition requiring return, transfer or conveyance, which  
15 condition occurs by reason of the dissolution, shall be  
16 returned, transferred or conveyed in accordance with such  
17 requirements;

18 (c) assets received and held by the  
19 corporation subject to limitations permitting their use only  
20 for charitable, religious, eleemosynary, benevolent,  
21 educational or similar purposes, but not held upon a condition  
22 requiring return, transfer or conveyance by reason of the  
23 dissolution, shall be transferred or conveyed to one or more  
24 nonprofit domestic corporations, nonprofit societies or  
25 nonprofit organizations engaged in activities substantially

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1 similar to those of the dissolving corporation, pursuant to a  
2 plan of distribution adopted as provided in the Nonprofit  
3 Corporation Act; and

4 (d) any remaining assets shall be  
5 distributed to the new for-profit corporation according to a  
6 plan of distribution adopted as provided in the Nonprofit  
7 Corporation Act.

8 B. After a conversion is approved by the board of  
9 directors, the nonprofit corporation shall file with the  
10 secretary of state new articles of incorporation and a  
11 statement containing the following:

12 (1) a statement that the for-profit  
13 corporation was converted from a nonprofit corporation;

14 (2) the former name of the nonprofit  
15 corporation;

16 (3) a statement of the number of votes cast by  
17 the members of the board of directions of the nonprofit  
18 corporation; and

19 (4) a statement that the articles of  
20 incorporation of the nonprofit corporation are to be canceled  
21 as of the date the conversion takes effect.

22 C. The filing of articles of incorporation for a  
23 for-profit corporation resulting from a conversion pursuant to  
24 this section cancels the articles of organization of the  
25 nonprofit corporation as of the date the conversion takes

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1 effect.

2 D. A conversion takes effect when the articles of  
3 incorporation of the converted corporation are filed with the  
4 secretary of state or at any later date specified in the filed  
5 document."

6 - 46 -  
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