

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 112

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

AN ACT

RELATING TO CANNABIS REGULATION; PROVIDING FOR STATE CRIMINAL HISTORY CHECKS AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS AS A CONDITION OF ELIGIBILITY FOR LICENSURE; REQUIRING THAT AN APPLICATION FOR CANNABIS ACTIVITY LICENSURE BE SIGNED BY THE APPLICANT; ADDING DEFINITIONS TO THE CANNABIS REGULATION ACT.

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

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

"26-2C-2. DEFINITIONS.--As used in the Cannabis Regulation Act:

A. "applicant" means an applicant seeking licensure pursuant to the Cannabis Regulation Act;

~~A.~~ B. "cannabis":

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

8 (2) does not include:

9 (a) the mature stalks of the plant;
10 fiber produced from the stalks; oil or cake made from the seeds
11 of the plant; any other compound, manufacture, salt,
12 derivative, mixture or preparation of the mature stalks, fiber,
13 oil or cake; or the sterilized seed of the plant that is
14 incapable of germination; or

15 (b) the weight of any other ingredient
16 combined with cannabis to prepare topical or oral
17 administrations, food, drink or other product;

18 [~~B.~~] C. "cannabis consumption area" means an area
19 of a licensed premises where cannabis products may be served
20 and consumed;

21 [~~G.~~] D. "cannabis courier" means a person that
22 transports commercial or medical cannabis products to
23 consumers;

24 [~~D.~~] E. "cannabis establishment" means:

25 (1) a cannabis testing laboratory;

- 1 (2) a cannabis manufacturer;
- 2 (3) a cannabis producer;
- 3 (4) a cannabis retailer;
- 4 (5) a cannabis research laboratory;
- 5 (6) a vertically integrated cannabis
- 6 establishment;
- 7 (7) a cannabis producer microbusiness;
- 8 (8) an integrated cannabis microbusiness; or
- 9 (9) a cannabis consumption area;

10 [~~E.~~] F. "cannabis extract":

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

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

17 [~~F.~~] G. "cannabis flowers" means only the flowers
18 of a cannabis plant;

19 [~~G.~~] H. "cannabis manufacturer" means a person
20 that:

- 21 (1) manufactures cannabis products;
- 22 (2) packages cannabis products for resale; or
- 23 (3) purchases, acquires, sells or transports
- 24 wholesale cannabis products to other cannabis establishments;

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

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- 1 (1) cultivates cannabis plants;
- 2 (2) transports unprocessed cannabis only to
- 3 other cannabis establishments; or
- 4 (3) sells cannabis wholesale;

5 ~~[F.]~~ J. "cannabis producer microbusiness" means a
6 cannabis producer at a single licensed premises that possesses
7 no more than two hundred total mature cannabis plants at any
8 one time;

9 ~~[G.]~~ K. "cannabis product" means a product that is
10 or that contains cannabis or cannabis extract, including edible
11 or topical products that may also contain other ingredients;

12 ~~[H.]~~ L. "cannabis research laboratory" means a
13 facility that produces or possesses cannabis products and all
14 parts of the plant genus *Cannabis* for the purpose of studying
15 cannabis cultivation, characteristics or uses;

16 ~~[I.]~~ M. "cannabis retailer" means a person that
17 sells cannabis products to consumers;

18 ~~[J.]~~ N. "cannabis testing laboratory" means a
19 facility that samples, collects and tests cannabis products and
20 transports cannabis products for the purpose of testing;

21 ~~[K.]~~ O. "commercial cannabis activity":

- 22 (1) means the cultivation, production,
- 23 possession, manufacture, storage, testing, researching,
- 24 packaging and labeling, transportation, couriering, purchase
- 25 for resale, sale or consignment of cannabis products; and

1 (2) does not include activities related only
 2 to the medical cannabis program or to the personal cultivation
 3 or use of cannabis products;

4 [~~Q.~~] P. "consumer" means a person twenty-one years
 5 of age or older who legally purchases, acquires, owns,
 6 possesses or uses a commercial cannabis product not for resale
 7 or a person who holds a medical cannabis program registry
 8 identification card issued by the department of health or is a
 9 reciprocal participant;

10 [~~P.~~] Q. "contaminant" means pesticides and other
 11 foreign material, such as hair, insects or other similar
 12 adulterants, in harvested cannabis;

13 [~~Q.~~] R. "controlling person":
 14 (1) means a human person that controls a
 15 financial or voting interest of ten percent or more of, or an
 16 officer or board member of, an applicant or a cannabis
 17 establishment; and

18 (2) does not include a bank or licensed
 19 lending institution;

20 [~~R.~~] S. "cultivation" means any activity involving
 21 the planting, growing, harvesting, drying, curing, grading or
 22 trimming of cannabis;

23 [~~S.~~] T. "department" means the regulation and
 24 licensing department;

25 [~~T.~~] U. "director" means the director of the

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1 division;

2 ~~[U.]~~ V. "division" means the cannabis control
3 division of the department;

4 ~~[V.]~~ W. "dry weight basis", when used in the
5 context of regulation of commercial cannabis activity, means a
6 process by which delta-9-tetrahydrocannabinol concentration is
7 measured relative to the aggregate weight of all parts of the
8 plant genus *Cannabis*, whether growing or not, including the
9 leaves of the plant, the flowers and buds of the plant, the
10 seeds of the plant, the resin of the plant and the stalks of
11 the plant at the point of harvest by a licensee and with no
12 moisture added to the harvested plant;

13 ~~[W.]~~ X. "facility" means a building, space or
14 grounds licensed for the production, storage, testing,
15 manufacturing, distribution, sale or consumption of cannabis
16 products;

17 ~~[X.]~~ Y. "financial consideration" means value that
18 is given or received, directly or indirectly, through sales,
19 barter, trade, fees, charges, dues, contributions or donations;

20 ~~[Y.]~~ Z. "homegrown" or "homemade" means grown or
21 made for purposes that are not for resale;

22 ~~[Z.]~~ AA. "illegal cannabis product" means a
23 cannabis product that is:

24 (1) produced or manufactured outside New
25 Mexico;

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1 (2) produced, manufactured, distributed or
 2 sold in New Mexico by a person not licensed to produce,
 3 manufacture, distribute or sell the cannabis product; or

4 (3) produced, manufactured, distributed or
 5 sold by a person acting outside the limits of the person's
 6 license; provided that "illegal cannabis product" does not
 7 include homegrown or homemade cannabis products that comply
 8 with the provisions of the Cannabis Regulation Act;

9 ~~[AA.]~~ BB. "immature cannabis plant" means a
 10 cannabis plant that has no observable flowers or buds;

11 ~~[BB.]~~ CC. "industry standards" means the prevailing
 12 customary standards of business practice in the cannabis
 13 industry in jurisdictions within the United States;

14 ~~[CC.]~~ DD. "integrated cannabis microbusiness" means
 15 a person that is licensed to conduct one or more of the
 16 following:

17 (1) production of cannabis at a single
 18 licensed premises; provided that the person shall not possess
 19 more than two hundred total mature cannabis plants at any one
 20 time;

21 (2) manufacture of cannabis products at a
 22 single licensed premises;

23 (3) sales and transportation of cannabis
 24 products produced or manufactured by that person or another
 25 cannabis producer microbusiness or integrated cannabis

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1 microbusiness;

2 (4) operation of only one retail
3 establishment; and

4 (5) couriering of cannabis products to
5 consumers;

6 ~~DD.~~ EE. "licensed premises" means a location that
7 includes:

8 (1) all enclosed public and private areas at
9 the location that are used in the business and includes
10 cannabis consumption areas, offices, kitchens, restrooms and
11 storerooms;

12 (2) all areas outside of a building that are
13 specifically included in the license;

14 (3) all areas of a standalone cannabis
15 consumption area, including retail and other areas, whether in
16 enclosed or outside spaces, and including private or members-
17 only clubs where cannabis products are available for sale or
18 consumption; and

19 (4) with respect to a location that is
20 specifically licensed for the production of cannabis outside of
21 a building, the amount of land that the licensee owns, leases
22 or has a right to occupy that is identified in the application
23 for licensure for cultivation of cannabis; provided that the
24 licensed premises may be decreased but shall not be increased
25 without permission of the division;

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1 FF. "licensee" means a person that is licensed
 2 pursuant to the Cannabis Regulation Act;

3 [~~EE.~~] GG. "local jurisdiction" means a
 4 municipality, including a home rule municipality, or county;

5 [~~FF.~~] HH. "manufacture" means to compound, blend,
 6 extract, infuse, package and label or otherwise prepare a
 7 cannabis product;

8 [~~GG.~~] II. "medical cannabis" means cannabis
 9 products used by a qualified patient or reciprocal participant
 10 in accordance with the Lynn and Erin Compassionate Use Act;

11 [~~HH.~~] JJ. "medical cannabis program" means the
 12 program created pursuant to the Lynn and Erin Compassionate Use
 13 Act;

14 [~~II.~~] KK. "medical cannabis registry" means the
 15 system by which the department of health approves or denies
 16 applications and issues and renews registry identification
 17 cards for qualified patients and primary caregivers;

18 [~~JJ.~~] LL. "primary caregiver" means a resident of
 19 New Mexico who is at least eighteen years of age and who is
 20 responsible for managing the well-being of a qualified patient
 21 with respect to the medical use of cannabis pursuant to the
 22 Lynn and Erin Compassionate Use Act;

23 [~~KK.~~] MM. "public space" means any place to which
 24 the general public has access;

25 [~~LL.~~] NN. "qualified patient" means a resident of

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1 New Mexico who holds a registry identification card pursuant to
2 the Lynn and Erin Compassionate Use Act;

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

12 ~~[NN.]~~ PP. "residence" or "household" means a
13 housing unit and includes any place in or around the housing
14 unit that is not a public space and at which an occupant of the
15 housing unit produces, manufactures, keeps or stores homegrown
16 or homemade cannabis products or stores legally purchased
17 cannabis;

18 ~~[OO.]~~ QQ. "retail establishment" means a location
19 at which cannabis products are sold directly to consumers;

20 ~~[PP.]~~ RR. "superintendent" means the superintendent
21 of regulation and licensing;

22 ~~[QQ.]~~ SS. "unprocessed" means unaltered from an
23 original, raw or natural state; and

24 ~~[RR.]~~ TT. "vertically integrated cannabis
25 establishment" means a person that is authorized to act as one

1 or more of the following:

- 2 (1) a cannabis courier;
- 3 (2) a cannabis manufacturer;
- 4 (3) a cannabis producer; and
- 5 (4) a cannabis retailer."

6 SECTION 2. Section 26-2C-3 NMSA 1978 (being Laws 2021
7 (1st S.S.), Chapter 4, Section 3) is amended to read:

8 "26-2C-3. DIVISION--POWERS AND DUTIES--RULEMAKING--
9 ADVISORY COMMITTEE CREATED--MEMBERSHIP--DUTIES.--

10 A. The "cannabis control division" is created in
11 the department to administer the Cannabis Regulation Act and
12 the licensing provisions of the Lynn and Erin Compassionate Use
13 Act and rules promulgated in accordance with those acts. Rules
14 shall be adopted and promulgated as provided in the State Rules
15 Act.

16 B. No later than January 1, 2022, the division
17 shall promulgate rules that are consistent with industry
18 standards necessary for the division to carry out its duties
19 pursuant to the Cannabis Regulation Act as follows:

20 (1) qualifications and procedures for
21 licensure; provided that qualifications shall be directly and
22 demonstrably related to the operation of the applicable
23 cannabis establishment;

24 (2) security requirements for a cannabis
25 establishment;

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1 (3) requirements related to:

2 (a) inspection and monitoring of a
3 cannabis establishment;

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

6 (c) prevention of the sale or diversion
7 of cannabis products in commercial cannabis activity to a
8 person under the age of twenty-one;

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

11 (e) language for labels of cannabis
12 products regarding potential adverse effects;

13 (4) rules providing that:

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

18 (b) as to commercial cannabis activity:
19 1) a consumer shall not possess more than two ounces of
20 cannabis, sixteen grams of cannabis extract and eight hundred
21 milligrams of edible cannabis outside the consumer's private
22 residence; 2) any cannabis in excess of the amounts described
23 in Item 1) of this subparagraph shall be stored in the person's
24 residence and shall not be visible from a public place; and 3)
25 the division shall not limit the amount of tetrahydrocannabinol

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1 concentration in a cannabis product; provided that the division
 2 may adopt requirements for apportionment and packaging of
 3 cannabis products;

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

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

8 (7) procedures that promote and encourage full
 9 participation in the cannabis industry governed by the Cannabis
 10 Regulation Act by representatives of communities that have been
 11 disproportionately harmed by rates of arrest through the
 12 enforcement of cannabis prohibitions in law and policy, rural
 13 communities likely to be impacted by cannabis production and
 14 agricultural producers from economically disadvantaged
 15 communities;

16 (8) procedures that promote and encourage
 17 racial, ethnic, gender and geographic diversity and New Mexico
 18 residency among [~~license~~] applicants, licensees and cannabis
 19 industry employees;

20 (9) rules for a certification process to
 21 identify cannabis products for consumers from integrated
 22 cannabis microbusinesses or cannabis producer microbusinesses
 23 or owned by representatives of communities that have been
 24 disproportionately harmed by rates of arrest through the
 25 enforcement of cannabis prohibitions in law and policy and

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1 underserved communities that include tribal, acequia, land
2 grant-merced and other rural historic communities;

3 (10) in consultation with the economic
4 development department, development of a technical assistance
5 resource guide for rural New Mexico residents who are seeking
6 to establish vertically integrated cannabis establishments,
7 cannabis producer microbusinesses or integrated cannabis
8 microbusinesses;

9 (11) in consultation with the department of
10 environment, rules to establish:

11 (a) health and safety standards
12 applicable to the research, production and manufacture of
13 cannabis products;

14 (b) standards for food and product
15 safety applicable to cannabis products; and

16 (c) which additives are approved for and
17 prohibited from inclusion in cannabis products; provided that
18 nicotine shall be prohibited;

19 (12) in consultation with the New Mexico
20 department of agriculture and the department of environment,
21 rules to establish standards for quality control, inspection
22 and testing of cannabis products for potency and contaminants,
23 except for cannabis produced or harvested for research purposes
24 and not for ingestion; provided that all such rules and
25 standards shall be consistent with the rules and standards for

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1 testing of medical cannabis products; and

2 (13) in consultation with the state fire
 3 marshal's office of the homeland security and emergency
 4 management department, rules with regard to health and safety.

5 C. No later than January 1, 2022, the division
 6 shall promulgate rules that are consistent with industry
 7 standards relating to cannabis training and education programs,
 8 including:

9 (1) qualifications and procedures for
 10 licensure; and

11 (2) physical security, cybersecurity and, if
 12 applicable, security of information collected under the federal
 13 Health Insurance Portability and Accountability Act of 1996
 14 requirements.

15 D. No later than January 1, 2022, the division
 16 shall promulgate rules in consultation with the New Mexico
 17 department of agriculture, the department of environment and
 18 the office of the state engineer to establish:

19 (1) environmental protections; and

20 (2) protocols to ensure licensees' compliance
 21 with state and local laws and ordinances governing food and
 22 product safety, occupational health and safety, environmental
 23 impacts, natural resource protection, water use and quality,
 24 water supply, hazardous materials, pesticide use and wastewater
 25 discharge.

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1 E. No later than January 1, 2022, the division
2 shall adopt rules in consultation with the department of health
3 to establish standards and determinations on requirements for
4 reserving cannabis products for sale to qualified patients,
5 primary caregivers and reciprocal participants.

6 F. The division shall collect and publish annually
7 on the division's website, and present to the appropriate
8 interim committee of the legislature, a report describing
9 demographic data on [~~license~~] applicants, controlling persons
10 and employees of cannabis establishments, including race,
11 ethnicity, gender, age, residential status and whether the
12 applicants, persons, employees or the locations where the
13 cannabis products are produced, manufactured, sold, tested or
14 researched are located in an underserved rural community,
15 including tribal, acequia, land grant-merced or other rural
16 historic communities.

17 G. The "cannabis regulatory advisory committee"
18 shall be created no later than September 1, 2021. The
19 committee shall advise the division on the development of rules
20 pursuant to the Cannabis Regulation Act, including best
21 practices and the promotion of economic and cultural diversity
22 in licensing and employment opportunities and protection of
23 public health and safety while ensuring a regulated environment
24 for commercial cannabis activity that does not impose
25 unreasonable barriers that would perpetuate, rather than reduce

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1 and eliminate, the illicit market for cannabis. A person
 2 appointed to the cannabis regulatory advisory committee shall
 3 not hold any ownership interest or investment in a licensed
 4 person pursuant to the Cannabis Regulation Act; provided that
 5 the superintendent may appoint a person who holds an ownership
 6 interest in a licensed person as a nonvoting member. The
 7 committee shall consist of the following members:

8 (1) the chief public defender or the chief
 9 public defender's designee;

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

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

14 (4) a county sheriff appointed by the
 15 executive director of the New Mexico association of counties;

16 and

17 (5) one member for each of the following
 18 groups or professional qualifications, appointed by the
 19 superintendent:

20 (a) a cannabis policy advocacy
 21 organization;

22 (b) a labor organization;

23 (c) a qualified patient;

24 (d) a state or local agency with
 25 relevant expertise as the director and the superintendent deem

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1 appropriate;

2 (e) an Indian nation, tribe or pueblo
3 with relevant expertise as the director and the superintendent
4 deem appropriate;

5 (f) expertise in public health;

6 (g) expertise in regulating commercial
7 activity for adult-use intoxicating substances;

8 (h) expertise and experience in cannabis
9 laboratory science;

10 (i) expertise in environmental science;

11 (j) expertise in small business
12 development;

13 (k) expertise in water resources;

14 (l) expertise in other relevant areas as
15 the director and the superintendent deem appropriate; and

16 (m) previous experience as a cannabis
17 retailer, cannabis producer or cannabis manufacturer and who is
18 a nonvoting member.

19 H. The cannabis regulatory advisory committee shall
20 elect from among its members a chair and such other officers as
21 it deems necessary. The committee shall meet at the call of
22 the chair, the director or the superintendent. A majority of
23 members currently serving constitutes a quorum for the conduct
24 of business. Members shall serve at the pleasure of the
25 superintendent.

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1 I. Public voting members of the cannabis regulatory
 2 advisory committee are entitled to receive per diem and mileage
 3 as provided for state employees pursuant to the Per Diem and
 4 Mileage Act and shall receive no other compensation, perquisite
 5 or allowance.

6 J. The division shall:

7 (1) monitor the supply and demand of cannabis
 8 products produced in New Mexico by licensees and present
 9 annually to the appropriate interim committee of the
 10 legislature the impacts of supply on illicit cannabis products
 11 markets and adequate supply of cannabis products for qualified
 12 patients and reciprocal participants;

13 (2) request the department of public safety to
 14 enforce the provisions of the Cannabis Regulation Act as deemed
 15 necessary; [~~and~~]

16 (3) undertake studies and conduct courses of
 17 instruction for division employees that will improve the
 18 operations of the division and advance its purposes; and

19 (4) receive and maintain information and data
 20 from the department of public safety and the federal bureau of
 21 investigation relating to licensing disqualifications based on
 22 criminal history."

23 SECTION 3. Section 26-2C-3.1 NMSA 1978 (being Laws 2024,
 24 Chapter 38, Section 5) is amended to read:

25 "26-2C-3.1. CRIMINAL HISTORY BACKGROUND CHECKS--PROCESSES

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1 AND PROCEDURES.--

2 [~~A. As used in this section:~~

3 ~~(1) "director" means a person who serves on~~
4 ~~the corporate board of directors of a corporation licensed by~~
5 ~~the division as a cannabis establishment;~~

6 ~~(2) "member and manager" includes those~~
7 ~~persons who are members in or managers of a limited liability~~
8 ~~company licensed by the division as a cannabis establishment~~
9 ~~and who are responsible for the operations of the limited~~
10 ~~liability company;~~

11 ~~(3) "officer" means a president, one or more~~
12 ~~vice presidents, a secretary, a treasurer or a secretary-~~
13 ~~treasurer or a member of the executive committee, if different~~
14 ~~from these named officers, of a corporation licensed by the~~
15 ~~division as a cannabis establishment; and~~

16 ~~(4) "partner" means a person who is a co-owner~~
17 ~~of a business licensed by the division as a cannabis~~
18 ~~establishment.]~~

19 A. To investigate the suitability of an applicant
20 for the medical cannabis program or commercial cannabis
21 activity, the division shall have access to criminal history
22 records information furnished by the department of public
23 safety and the federal bureau of investigation, subject to any
24 restrictions imposed by federal law. If the division considers
25 the criminal history record of all controlling persons of an

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1 applicant, the division shall also consider information
 2 provided by the applicant about the criminal history record,
 3 including evidence of rehabilitation, character references and
 4 educational achievements.

5 B. All controlling persons of an applicant for a
 6 license to conduct commercial cannabis activity shall undergo a
 7 state and federal criminal history records check, and the
 8 controlling persons shall submit an electronic set of
 9 fingerprints to the department of public safety for that
 10 purpose. The department of public safety shall conduct a check
 11 of state records and forward the fingerprints to the federal
 12 bureau of investigation for a national criminal history records
 13 check to determine the existence and content of a record of
 14 convictions and arrests in this state or other law enforcement
 15 jurisdictions and to generate a criminal history records check
 16 in accordance with rules of the department of public safety and
 17 regulations of the federal bureau of investigation. The
 18 department of public safety may acquire a name-based criminal
 19 history records check for all controlling persons of an
 20 applicant or a licensee who have twice submitted to a
 21 fingerprint-based criminal history record check and whose
 22 fingerprints are unclassifiable. The department of public
 23 safety shall review the information obtained from the criminal
 24 history records check and shall compile and provide that
 25 information to the division. The division shall use the

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1 information resulting from the fingerprint-based criminal
2 history records check to investigate and determine whether an
3 applicant is qualified to hold a cannabis license.

4 C. Criminal history information received from the
5 department of public safety or the federal bureau of
6 investigation that is not already a matter of public record
7 shall:

8 (1) be confidential;

9 (2) be restricted to the exclusive use of the
10 division for evaluating an applicant's eligibility or
11 disqualification for licensure;

12 (3) not be considered a public record pursuant
13 to the Public Records Act; and

14 (4) not be disclosed to anyone other than
15 public employees directly involved in the decision affecting
16 the applicant.

17 ~~[B.] D. The division and the department of public~~
18 ~~safety shall adopt rules [providing the procedures to be~~
19 ~~followed for submission of an applicant's biometric data to the~~
20 ~~department of public safety to conduct a state criminal history~~
21 ~~background check and for its submission of the biometric data~~
22 ~~to the federal bureau of investigation to conduct a national~~
23 ~~criminal history background check for the following cannabis~~
24 ~~establishments:~~

25 ~~(1) cannabis courier;~~

- 1 ~~(2) cannabis manufacturer;~~
- 2 ~~(3) cannabis producer;~~
- 3 ~~(4) cannabis producer microbusiness;~~
- 4 ~~(5) cannabis research laboratory;~~
- 5 ~~(6) cannabis retailer;~~
- 6 ~~(7) cannabis testing laboratory;~~
- 7 ~~(8) integrated cannabis microbusiness;~~
- 8 ~~(9) vertically integrated cannabis~~
- 9 ~~establishment; and~~
- 10 ~~(10) cannabis consumption licensees if~~
- 11 ~~different from cannabis retailer.~~

12 ~~G. The division shall require state and national~~
 13 ~~criminal history background checks for the following persons:~~

- 14 ~~(1) if an applicant for licensure is a sole~~
- 15 ~~proprietor business, the sole proprietor;~~
- 16 ~~(2) if an applicant for licensure is a limited~~
- 17 ~~partnership, each partner of the limited partnership;~~
- 18 ~~(3) if the applicant for licensure is a~~
- 19 ~~limited liability company, each member and manager of the~~
- 20 ~~limited liability company;~~
- 21 ~~(4) if the applicant for licensure is a~~
- 22 ~~corporation, each director and officer of the corporation; and~~
- 23 ~~(5) any controlling person of the applicant~~
- 24 ~~for licensure, as defined in Section 26-2G-2 NMSA 1978.~~

25 ~~D. The division shall use the information from the~~

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1 ~~criminal history background check to evaluate the applicant's~~
2 ~~qualifications for licensure.~~

3 ~~E. Arrest record information received from the~~
4 ~~federal bureau of investigation and the department of public~~
5 ~~safety shall be confidential, shall not be considered a public~~
6 ~~record pursuant to the Public Records Act and shall not be~~
7 ~~disclosed to persons not directly involved in the decision~~
8 ~~affecting the applicant] to carry out the provisions of this~~
9 ~~section."~~

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

13 "26-2C-7. CANNABIS ACTIVITY LICENSING--APPLICATION--
14 ISSUANCE AND DENIAL OF A LICENSE--SUSPENSION AND
15 REVOCATION.--

16 A. In carrying out its commercial cannabis activity
17 licensing duties, the division shall:

18 (1) ~~[no later than September 1, 2021]~~ accept
19 and ~~[begin processing]~~ process license applications; ~~[for~~
20 ~~cannabis producers, cannabis producer microbusinesses and any~~
21 ~~person properly licensed and in good standing as a licensed~~
22 ~~cannabis producer pursuant to the Lynn and Erin Compassionate~~
23 ~~Use Act;~~

24 (2) ~~no later than January 1, 2022, accept and~~
25 ~~begin processing license applications for all license types;~~

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1 ~~(3) if a cannabis producer or cannabis~~
 2 ~~producer microbusiness]~~ (2) require as a condition of
 3 licensing for any type of cannabis producer or cannabis
 4 producer microbusiness that the applicant demonstrate that the
 5 applicant has a legal right to a commercial water supply, water
 6 rights or other source of water sufficient to meet the water
 7 needs as determined by the division related to the license as
 8 evidenced by documentation from the office of the state
 9 engineer of a valid water right or from a water provider that
 10 the use of water for cannabis production is compliant with that
 11 water provider's rules; and

12 ~~[(4)]~~ (3) require as a condition of licensing
 13 for any type of cannabis producer or manufacturer license
 14 ~~[require]~~ that the applicant ~~[to]~~ submit a plan to use, or
 15 demonstrate to the division that the applicant cannot feasibly
 16 use, energy or water reduction opportunities, including:

17 (a) ~~[for a cannabis producer]~~ drip
 18 irrigation and water collection;

19 (b) natural lighting and energy
 20 efficiency measures; and

21 (c) renewable energy generation.

22 B. An application for licensure shall be signed by
 23 the applicant or, if the applicant is a corporation or other
 24 legal entity, signed by an officer or other person with legal
 25 authority to sign documents for the corporation or other legal

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underscored material = new
 [bracketed material] = delete

1 entity. Once the division deems an application complete, the
2 division has ninety days to issue or deny a license
3 application.

4 C. The division shall deny an application for an
5 initial license or renewal if the application does not include
6 information required by the division or the applicant does not
7 meet the requirements of the Cannabis Regulation Act or rules
8 promulgated in accordance with that act.

9 D. The division may refuse to issue, suspend or
10 revoke a license in accordance with the Uniform Licensing Act
11 of any person who does not meet the qualifications for
12 licensure, who is not in compliance with the Cannabis
13 Regulation Act or rules promulgated in accordance with that act
14 or for whom one or more of the following are substantially
15 related to the qualifications, functions or duties of the
16 applicant's or licensee's business in New Mexico:

17 (1) a tax lien related to cannabis activity in
18 this or another state;

19 (2) a pending investigation or a felony
20 indictment or conviction of the applicant or licensee or a
21 controlling person of the applicant or licensee in this state
22 or another state or by the federal government involving fraud,
23 deceit or embezzlement;

24 (3) a pending investigation or a felony
25 indictment or conviction of the applicant or licensee or a

1 controlling person of the applicant or licensee involving
 2 producing, manufacturing, distributing, selling or giving away
 3 illegal cannabis products;

4 (4) the denial, suspension or revocation of a
 5 cannabis license in another state that would have the same
 6 result if occurring in New Mexico;

7 (5) a pending investigation or a felony
 8 indictment or conviction for hiring, employing or otherwise
 9 using a person younger than eighteen years of age or a person
 10 of any age who is a victim of trafficking, forced labor or
 11 other exploitation to produce, manufacture, transport or sell
 12 cannabis or a controlled substance;

13 (6) a licensee or controlling person that
 14 after a notice of noncompliance issued by the division refuses
 15 to follow division licensing requirements, state or local
 16 operational rules, public health and safety laws or rules or
 17 other provisions of state law pertaining to cannabis products;
 18 or

19 (7) any other governmental action pending or
 20 taken against an applicant, licensee or controlling person that
 21 in the division's determination makes the person unqualified to
 22 be licensed or involved in a cannabis business in New Mexico.

23 E. Production, manufacture, distribution, sale or
 24 possession of illegal cannabis product is grounds for denial,
 25 suspension or revocation of a license or for taking any other

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underscored material = new
~~[bracketed material] = delete~~

1 disciplinary action allowed by law or rule of the division.

2 F. If the division determines, after a review of
3 pertinent circumstances provided in Subsection D of this
4 section, that the applicant, licensee or controlling person
5 otherwise meets the qualifications for licensure and that
6 issuing a license does not compromise the state's cannabis
7 program or the public health or safety, the division shall
8 issue the license or close the suspension or revocation case.

9 G. A conviction for which the related sentence,
10 including any term of probation or parole, has been completed
11 for the production, possession, use, manufacture, distribution
12 or sale or the possession with the intent to manufacture,
13 distribute or sell cannabis is not considered substantially
14 related to the qualifications, functions or duties of a person
15 seeking a license and shall not be the sole ground on which an
16 application is denied. The provisions of the Uniform Licensing
17 Act and the Criminal Offender Employment Act shall govern
18 consideration of criminal records required or permitted by the
19 Cannabis Regulation Act.

20 H. The division shall deny an application if an
21 applicant, a controlling person or the premises for which a
22 license is sought does not qualify for licensure pursuant to
23 the Cannabis Regulation Act.

24 I. The division shall not license a person who has
25 had a license that was issued pursuant to the Cannabis

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1 Regulation Act or the Lynn and Erin Compassionate Use Act
2 revoked by the division or the department of health in the
3 three years immediately preceding the date on which the person
4 filed a new application.

5 J. Unless otherwise provided in the Cannabis
6 Regulation Act, a person whose license has been revoked may
7 reapply for a license after a period of three years. The
8 division may consider all of the circumstances resulting in the
9 revocation in determining whether to issue a new license."